THE CONTROL OF THE PURSE

IN THE

UNITED STATES GOVERNMENT,

A THESIS PRESENTED TO THE FACULTY OF THE UNIVERSITY
OF MICHIGAN FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY.

BY

EPHRAIM D. ADAMS,

Assistant in History and Sociology,
University of Kansas.

REPRINTED FROM THE KANSAS UNIVERSITY QUARTERLY
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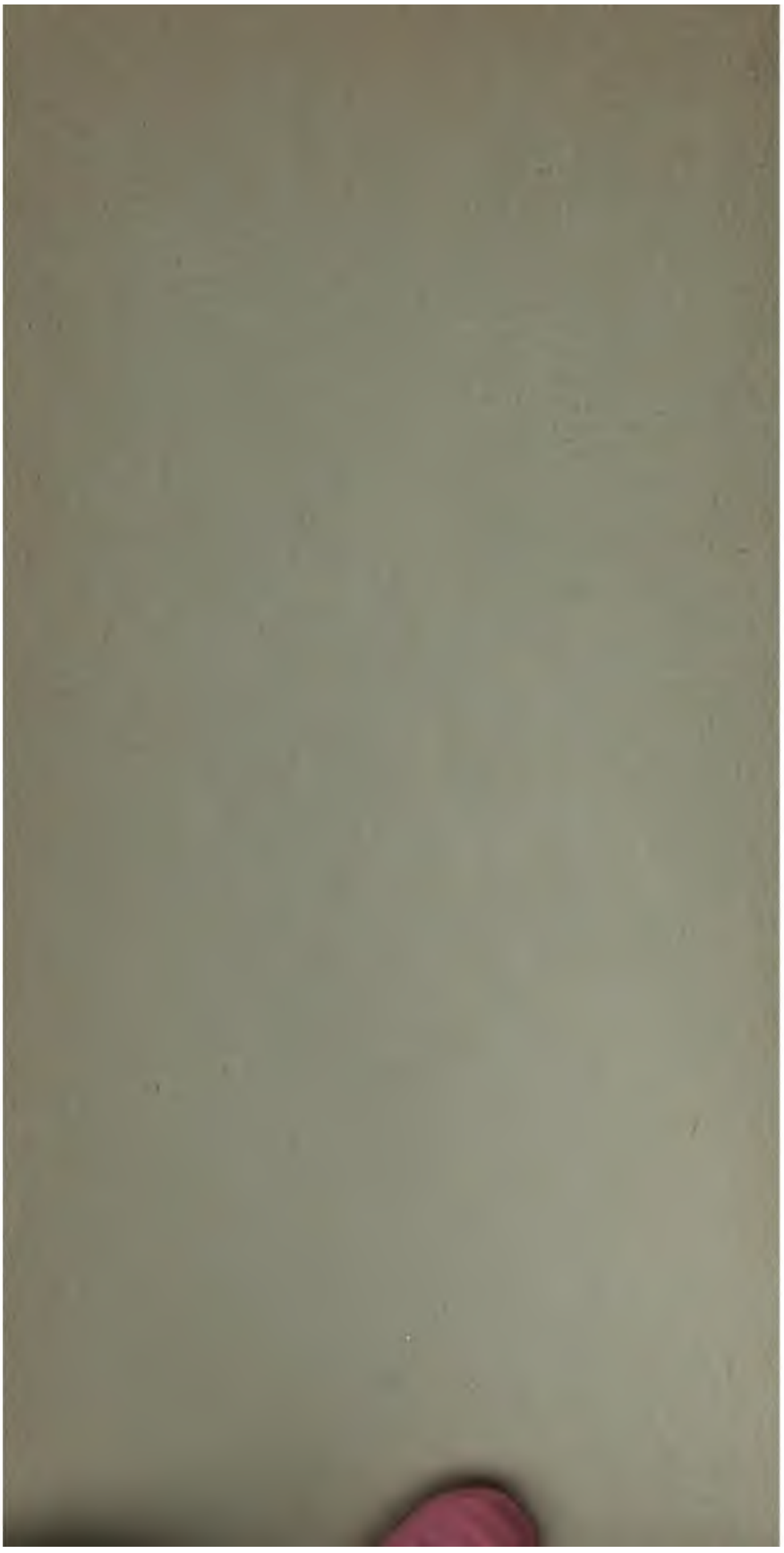

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The Control of the Purse in the United States Government.

BY E. D. ADAMS.

Introduction.

The investigation outlined in the following pages, of those provisions of the constitution which relate to the control of financial matters, was originally undertaken with the idea of tracing the development of the principle of self-taxation in England, and of noting how that principle came to be introduced into the United States. It was found that a study of budgetary control by the Commons in England amounted to little less than a study of the growth of the English constitution, so that it seemed best to confine the thesis to the consideration of the great provisions of the constitution of the United States, and to trust to the reader to remember that the presence of an article in the constitution, granting to the House the privilege of originating revenue bills, is due to the long recognized principle in England, that the people, through their representatives in the Commons, should control the extent and purpose of taxation.

The history of the introduction of the constitutional restriction referred to has been condensed also, so that the greater portion of the thesis is devoted to the various debates in Congress upon the correct interpretation of the constitution. These debates show that the House of Representatives has put a broader construction upon its privilege than was intended by the constitutional convention, and has practically assumed supreme control over all financial matters. Under these circumstances the natural inquiry is, whether or not the House of Representatives secures to the people of the United States that direct control over money matters which was intended by the constitutional provision. In this connection a brief account is given of the business organization of Congress and the effect of that organization upon the responsibility of representatives.

Of the two main parts of the thesis, the historical account traces fully the various interpretations of the constitutional provision, while lack of space compels a condensation of the conclusion involving many abrupt transitions.

AUTHORITIES.

UNITED STATES:— Madison Papers; Elliott's Debates: Bigelow, American Constitutions; American's Guide to State Constitutions; Poore, Charters and Constitutions; Annals of Congress; Journal of the House of Representatives; Congressional Debates; Congressional Globe; Congressional Record; House of Representatives Reports; Senate Reports; Peters, United States Statutes at Large; Smith, Digest of the Rules of the House; Reade, Digest of the Rules of the Senate; Hildreth, History of the United States; Greely, American Conflict; Wilson, Congressional Government; Stickney, a True Republic; Correspondence on the Budget, Cobden Club; North American Review, vols. 26, 108, 111, 128; The Atlantic Monthly, vol. 55; The Nation, for April 4, 1878; Stevens, Life of Albert Gallatin.

ENGLAND:— Statutes of the Realm; Hansard's Debates; May, Parliamentary Practice; Anson, Law and Custom of the Constitution; Feilden, Short Constitutional History of England.

A.—Debates in the Constitutional Convention on the Origination of Money Bills.

The Revolution of 1688 had firmly established the principle that taxation in England must be controlled by Parliament. The famous demand of the Americans in 1776 of "No taxation without representation" was but a claim to political liberty equal to that which had been enjoyed by the mother country for nearly a hundred years. The effect of the arbitrary government of Charles I upon the England of 1640 found its counterpart in the effect of the government of George III upon the America of 1776. The war of the Revolution firmly established the principle of self-taxation in America, though it was a principle which had long been asserted in colonial charters and constitutions.

As in England, when the principle of self-taxation was once firmly established, the history of the budget is concerned with the relations between the Crown, the Lords and the Commons, and is to be found rather in the standing orders of the two houses, than in the statutes of the realm, so in the United States the history of the budget is confined to the various provisions pertaining to the origination of

money bills, and to the powers of the two houses in regard to them. The clause in the constitution which provides that all money bills shall originate in the House of Representatives, is preceded in time by various provisions in the state constitutions. In 1776, eight of the states adopted new constitutions, and of these, five contained provisions that all money bills must originate in the lower house. Many of these provisions are similar to that of Massachusetts, adopted in 1780: "All money bills shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills;"* but some of the state constitutions also contain provisions which are intended to prevent the lower house from abusing this privilege by the tacking of riders to money bills.† The idea that the lower house is more fit to discuss matters of taxation, because its members are more directly the representatives of the people, was undoubtedly an outgrowth of the principle of the English constitution that the Commons should make all grants to the Crown.‡ But its adoption by six states does not prove that it was an idea fully accepted by all the people, for other state constitutions previous to 1787 had no such provision. More than that, in the constitutional convention, many of the delegates from these six states were opposed to the introduction of a similar provision into the constitution of the United States.

Art. III of Pinckney's plan§ for a federal union, submitted to the convention on May 29th, 1787, provided that all money bills of every kind should originate in the House and should not be altered or amended by the Senate. In the first debate upon this question, the leading members of the convention were in the main opposed to giving any such exclusive privilege to the House, and the article was defeated by a vote of the states of seven to three.‖ But on July 5th

*Constitutions and Charters of the United States, Poore, Vol. I, p. 956.

†Art. X of the constitution of Maryland, which was adopted in 1776, declares that "The House of Delegates may originate all money bills." Art. XI provides "In order that the Senate * * * may not be compelled by the House of Delegates, either to reject a money bill which the emergency of affairs may require, or to assent to some other act of legislation, in their conscience and judgment injurious to the public welfare, the House of Delegates shall not, on any occasion or under any pretext, annex to or blend with a money bill any matter, clause or thing not immediately relating to and necessary for the imposing, assessing, levying or applying the taxes or supplies to be raised for the support of the government or the current expenses of the state: and to prevent altercation about such bills it is declared that no bill, imposing duties or customs for the mere regulation of commerce, or inflicting fines for the reformation of morals, or to enforce the execution of the laws, by which any incidental revenue may arise, shall be accounted as a money bill; but every bill assessing, levying or applying taxes or supplies for the support of the government or the current expenses of the state, or appropriating money in the treasury, shall be deemed a money bill." Bigelow, American Constitutions, p. 222.

The constitution of Delaware also makes provision against the same danger. Art. II, Sec. 14, reads: "All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose alterations as on other bills: and no bill, from the operation of which when passed into a law, revenue may *incidentally* arise shall be accounted a bill for raising revenue; nor shall any matter or clause whatever, relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue." American's Guide for State Constitutions, p. 187.

‡Madison Papers, Vol. II, p. 855, Speech of Butler.

§Ibid., p. 737.

‖Ibid., p. 858.

Franklin made a report* which contained three principal points. First, that the members of the House should be apportioned on the basis of population. Second, that all money bills should originate in the House.† Third, that the states should have equal representation in the Senate. Thus the origination of money bills was made a part of the struggle between the large and the small states over the question of representation, and it would be but natural to expect to find the large states in favor of and the small states opposed to this proposition of Franklin. But many of the most influential members from the large states did not believe in the wisdom of such a provision.‡ Madison, of Virginia, opposed it throughout, declaring that the Senate was as much the representative of the people as was the House, and would undoubtedly be composed of a class of men more capable of dealing with financial questions than would the House. Of the same mind were Morris§ and Wilson‖ of Pennsylvania, and Williamson** of North Carolina, while the members most earnest in support of the provision were Gerry of Massachusetts, Mason of Virginia and Franklin of Pennsylvania. Gerry said "it would establish the constitutional principle that the second branch were not possessed of the confidence of the people in money matters."†† Franklin thought that those who were nearest the people should distribute the people's money on the principle that "those who feel can best judge."‡‡ On the question whether the clause reading "All bills for raising revenue shall originate in the first branch of the legislature, and shall not be amended or altered by the second branch," the vote stood Connecticut, New Jersey, Delaware, Maryland, North Carolina, Yes, 5. Pennsylvania, Virginia, South Carolina, No, 3. Massachusetts, New York, Georgia, Divided, 3.§§

It is evident from this vote that the small states were offering an inducement to the large states which the large states either were unwilling to accept, or did not regard as wise. By a majority of the members of the convention the matter was not looked upon as a

*Madison Papers, Vol. II. pp. 1024. 1036.

†The provision read "that all bills for raising or appropriating money, and for fixing the salaries of the officers of the Government of the United States, shall origin te in the first branch of the legislature, and shall not be altered or amended by the second branch." —Elliot's Debates, Vol. V. p. 274.

‡Madison Papers, Vol. II. p. 857.

§Ibid., p. 1041.

‖Ibid., p. 1041.

**Ibid., p. 1043.

††Ibid., p. 1043.

‡‡"Dr. Franklin did not mean to go into a justification of the report, but as it had been asked what would be the use of restraining the second branch from meddling with money bills, he could not but remark that it was always of importance that the people should know who had disposed of their money and how it had been disposed of. It was a maxim that those who feel can best judge. This end would, he thought, be best attained if money affairs were to be confined to the immediate representatives of the people. This was his inducement to concur in the report."—Elliott's Debates, Vol. V. p. 284.

§§Madison Papers, Vol. II. p. 1045.

question of much constitutional importance but simply as a convenient subject upon which to base a compromise. Madison in an explanatory note says of the situation, "Col. Mason, Mr. Gerry and other members from large states set great value on the privilege of originating money bills. Of this the members from the small states, with some from the large states, who wished a high mounted government, endeavored to avail themselves, by making that privilege the price of arrangements in the constitution favorable to the small states, and to the elevation of the government."* The proof that the small states really cared nothing for the restriction as a constitutional principle is found in the vote taken on August 8th. By that time it had been decided that the states were to have equal representation in the Senate, and this point once gained, the small states were by no means so eager to support the provision restricting the origination of money bills to the House. Madison had always been a consistent opponent of such a measure and he now attempted to have the convention revoke its previous decision. On the question of striking out Art. IV, Sec. 5,† of the report of the committee on detail, the vote stood‡ New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, Yes, 7. New Hampshire, Massachusetts, Connecticut, North Carolina, No, 4. This breach of faith on the part of the small states, aroused the indignation of those delegates from the large states who were earnest in their desire to see the origination of money bills confined to the House of Representatives. The next day, August 9, Randolph§ of Virginia said that if Art. IV, Sec. 5, was not reinstated, he would oppose equality of votes in the Senate, and in this he was followed by Gerry, Franklin and others who had voted for the section in question. This brought on a renewal of the debate in the course of which it was asserted that the section as proposed would prevent the Senate from originating any bill, which might in any way affect the treasury. In order to overcome this objection, Randolph moved to amend by substituting the following clause: "Bills for raising money for the purpose of revenue, or for appropriating the same, shall originate in the House of Representatives, and shall not be altered or amended by the Senate so as to increase or diminish the sum to be raised, or change the mode of levying it or the object of its appropriation."‖ This amendment was, it is true, a solution of the difficulty mentioned, but at the same time it provided for just as great a restriction upon the

*Madison Papers, Vol. II, p. 1501.
†The section providing for the origination of money bills by the House.
‡Madison Papers, Vol. II, p. 1267.
§Madison Papers, Vol. III, p. 1270.
‖Elliott's Debates, Vol. V, p. 414.

upper house as did Franklin's plan. It was therefore unacceptable to a majority of the states and was stricken out, August 13.* On August 15 still another proposition was made which was intended to win the favor of the small states. This amendment while reserving to the House of Representatives the right of originating money bills, added the concession "but the Senate may propose or concur with amendments as in other cases."† This new proposition for compromise was not brought up for immediate consideration, but was postponed until August 31, and on that date the amendment was referred with several other subjects to a committee of one from each state. On September 4, this committee made a report suggesting that the Senate should be given the exclusive power to ratify treaties, to try all impeachments, and to confirm the appointment of officers, while, as a return for these exclusive powers, the committee reported the following clause; "All bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate."‡ This proposal seemed to be very nearly what had been at first demanded and at the same time was less objectionable to the small states. On September 8th, the question came up for final consideration, and a speech by Gerry, in which he argued that the plan of the convention would certainly be rejected by the people if the Senate was not restricted from the origination of money bills,§ led finally to the adoption of the proposition in the form in which it is found in Art. I, Sec. 7, of the Constitution, "All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills."‖ The discussions of the convention clearly indicate that the provision was not generally regarded as involving an essential constitutional principle. Many considered it the most convenient ground upon which to base a compromise, others thought it necessary for the adoption of the constitution by the people, while there were a few who were either in favor of it because of a firm belief in the principle or were opposed to it because of an equally firm disbelief in the wisdom of such a provision. The spirit of compromise predominated finally and the provision was accepted with but two dissenting votes, Maryland and Delaware.**

*Elliott's Debates. Vol. V. p. 420.

†Ibid., p. 427.

‡Ibid., p. 509.

§Madison Papers, Vol. III. p. 1320.

‖Ibid., p. 1600. This change in wording was made at the last minute and is said to have been derived from the constitution of Massachusetts.

**This is the more remarkable as the two states voting against the provision are the very states whose constitutions previous to 1787 contain stringent provisions in regard to money bills.

The only other provision of the constitution which may be called budgetary is Art. I, Sec. 9: "No money shall be drawn from the Treasury but in consequence of appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published from time to time." This provision was first submitted, in part, in Franklin's report of July 5, and formed a part of his plan of compromise. The wording of the report was, "and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch."* With the change in the wording of the main clause it became necessary to alter the latter clause also, and this having been done it was adopted on September 17, with the addition of the words requiring regular reports.† There was very little discussion upon this provision apart from the debate upon the main question, and the delay in adopting it was due merely to the necessity of first deciding whether or not the House of Representatives was to be given the right of originating money bills.

It was however of very little importance that the majority of the framers of the constitution did not regard the restriction of the origination of money bills to the House of Representatives as a great constitutional principle, for the people did regard it as such, and Gerry was right when he said that the presence or absence of such a provision would have much to do with the acceptance or rejection of the constitution by the people. That this provision has come to be regarded as a constitutional principle is clearly shown by the fact that many of the state constitutions which have been either altered or adopted since 1787, contain sections almost and in many cases exactly similar to Art. I, Sec. 7, of the constitution of the United States.‡ It cannot be said that the principle of the English constitution in this matter was accepted by the constitutional convention and therefore placed in our form of government. But once placed there it was accepted by the people as what they were pleased to call "a self-evident truth," and it has been believed by the American people ever since the adoption of the constitution that the people, through their representatives, should control the extent and purpose of taxation.

*Elliott's Debates, Vol. V, p. 274.

†Madison Papers, Vol. II, p. 1613.

‡An examination of Poore's Charters and Constitutions of the United States, shows that eighteen state constitutions contain a provision restricting the right of originating revenue bills to the lower branch of the legislature.

B.—Debates in Congress on the Interpretation of Constitutional Provisions.

There is hardly a section of the constitution which has not been the subject of very material disagreement as to interpretation, and the budgetary provisions of the constitution are no exception. The discussions over the correct interpretation of these budgetary provisions have usually been carried on by the House of Representatives, and have arisen from the determination on the part of the House to guard jealously its privileges in control of money affairs. These discussions and the decisions reached will indicate the way in which the budgetary provisions of the constitution have been regarded in times past and are regarded today, and it is proposed therefore to consider some of the more important of them.

I. First Congress, 1789. Debate on the clause of the Treasury bill which made it the duty of the Secretary of the Treasury to report a plan for the management of the revenue.

June 4, 1789, a House committee on arrangement of the three executive departments reported a bill for the treasury department.* This bill did not come up for discussion until June 25, when it at once received much hostile criticism upon constitutional ground because of the wording of the second clause which made it the duty of the Secretary of the Treasury "to digest and report plans for the management of the revenue and the support of the public credit. Those who were opposed to the adoption of this clause argued that it violated the spirit of the constitution in that it tended to lessen the control of the House over money bills. Mr. Page moved to strike out the clause and observed "that it might be well enough to enjoin upon him (the Secretary of the Treasury) the duty of making out and preparing estimates, but to go any further would be a dangerous innovation upon the constitutional privileges of this House; it would create an undue influence within these walls because members might be led, by the deference commonly paid to men of abilities who give an opinion in a case they have thoroughly studied, to support the minister's plan even against their own judgment."† Mr. Tucker followed, stating even more forcibly the constitutional objection as he saw it. Referring to the clause mentioned, he said "It will abridge the peculiar privilege of this House for the constitution expressly declares that all bills for raising revenue shall originate in the House of Representatives. * * * In short, Mr. Chairman, I can never

*Annals of Congress, Vol. I, p. 420.
†Ibid., p. 592.

agree to have money bills originated and forced upon this House by a man destitute of legitimate authority, while the constitution gives such power solely to the House of Representatives." *

These objections seem to have taken the House rather by surprise and there were not many representatives prepared to discuss the point. The debate lasted the greater part of the day. Mr. Benson, the first to defend the wording of the clause, declared that "if the proposed amendment prevail the bill will be entirely nugatory. The most important service that can be rendered by a gentleman who is at the head of the department of finance is that of digesting and reporting plans for the improvement of revenue. * * * For my part I am at a loss to see how the privilege of the House is infringed. Can any of the Secretary's plans be called bills? Will they be reported in such a form even?" † In a similar way, Mr. Lawrence argued that any bill "cannot be originated in my opinion until the sense of the House is declared; much less can a plan for the improvement of the revenue be said to be a money bill." ‡

This discussion of the exact meaning of the constitutional question aroused a wider interest when those who were most prominent in discussing Art. I, Sec. 7, in the constitutional convention undertook to interpret it in the halls of Congress. As in the convention Mr. Gerry had been for the exclusive privilege of the House and Mr. Madison opposed to it, so now these two men took opposite sides in the debate. The speech of the former was the strongest argument made against the bill as it stood and in favor of the amendment of Mr. Page. He expressed himself in favor of the object of the clause, that is, to get all the information possible for the purpose of improving the revenue, "but," said he, "do gentlemen consider the importance of the power they give the officer by the clause? Is it not part of our legitimate authority? And does not the constitution expressly declare that the House solely shall exercise the power of originating revenue bills? Now what is meant by reporting plans? It surely includes the idea of originating money bills, that is, a bill for improving the revenue, or in other words, of bringing revenue into the treasury. For, if he is to report plans, they ought to be reported in a proper form and complete. This is giving an indirect voice in legislative business to an executive officer. * * * But if my construction is true, we are giving up the most essential privilege vested in us by the constitution." § In a later speech Mr. Gerry partly confessed that his "construction" might not be entirely logical,

* Annals of Congress, Vol. I, p. 593.
† Ibid., p. 593-94.
‡ Ibid., p. 603.
§ Ibid., p. 601.

nevertheless he insisted on the necessity of carefully guardi
peculiar privilege of the house over money bills. In reply Mr.
son, who practically closed the debate, said: "I am at a loss
where the danger lies. These are precisely the words us
the former Congress on two occasions; one in 1783, the oth
subsequent ordinance which established the Revenue Board.
same power was also annexed to the office of Superintend
Finances, but I never yet heard that any inconvenience or
was experienced from the regulations. * * * With resp
originating money bills, the House has the sole right to do it;
the power of reporting plans can be construed to imply the po
originating revenue bills, then the constitution is inconsisten
itself in giving to the President authority to recommend such
ures as he may think expedient or necessary; but the construc
too unnatural to require further investigation."* Previous
speech of Mr. Madison, Mr. Fitzsimmons had moved to sub
"prepare" for "report" so that the clause read "digest and *p*
plans for the improvement and management of the revenue an
support of the public credit," and this alteration was acc
without much argument.

This debate derives its importance from the fact that it occ
in the first session of Congress, and was the first indication, aft
adoption of the constitution, of the emphasis placed by the H
upon the privilege of originating revenue bills. There was
speech during the debate which belittled that privilege or gave
dence that the speaker thought the privilege unwise or unjust.
Mr. Madison did not at this time express any doubts as to the
dom of such a privilege. He simply accepted the provision
existence and therefore to be followed, but he failed to see ho
clause of the treasury bill, as originally reported, violated the co
tution. The decision reached was of little importance. The
importance of the debate lies in the unanimity of opinion as to
power of the House. Yet there is another point of interest in
apparently, "money bills" and "revenue bills" meant the same t
in the minds of the speakers. In the argument of Mr. Madison
example, an illustration of this is given. No attention was calle
the possible distinction between the two terms, and it must be
posed therefore, that the House considered itself to have the exclu
initiative in all money matters, whether for increasing the revenu
for decreasing it, or, possibly, for appropriating money. T
points will be of interest in connection with the accounts of su
quent disagreements between the House and the Senate.

* Annals of Congress, Vol. I. p. 604-5.

II. 1792—1800. Demand of the House of Representatives for regular reports from the Secretary of the Treasury.

The next question which arose in Congress over the financial provisions of the constitution referred to that clause which provides for "a regular statement and account of receipts and expenditures." This debate indicated a determination on the part of the House to resist the encroachment of other departments of government. The definite steps taken in a succession of years opposing the control of financial matters assumed by the Secretary of the Treasury, were sometimes taken in connection with legislation of an entirely different nature. Thus the extension of the duties of the committee of Ways and Means*, in 1802, was the final step in that direction. There were, however, a series of definite attempts made to compel the Secretary of the Treasury to render regular statements, as provided by the constitution, and this series of demands by the House is now therefore reported.

Art. VII., Sec. 9 of the constitution provides that "a regular statement and account of the receipts and expenditures shall be made from time to time†," but the chaotic condition of financial affairs in the new government was such as to prevent Hamilton from making any regular report, whether he wished to do so or not. Moreover Hamilton was firm in the belief that the power of the executive should be strengthened, so that he was likely to resent any decided interference by the House of Representatives with the financial policy of the Treasury department. As early as 1790, however, the Secretary of the Treasury had been ordered by various resolutions of the House to make reports for specific times, and finally in 1792, a resolution was passed calling for an annual report of the condition of the Treasury. Hamilton professed his inability to make any such report, and attempted to put the question aside by a partial report made on Feb. 4th, 1793. This led to the adoption of the resolution of June 5th, 1794, "that the Secretary of the Treasury lay before the House of Representatives at each annual session within ten days of the commencement of the same a distinct account of the revenues arising under the several duties and taxes, and of the expense attending the collection of each particular duty or tax, as far as such expense can be discriminated; and also of the number of officers employed in collecting public revenue, and the allowance made to them respectively.‡" This resolution called for a report on the revenue only, but the Secretary of the Treasury was either unwilling or unable to

*See Part C. of this paper, on development of financial committees in House of Representatives.
†Clause 7.
‡House Journal, 1793-97, Vol. II., p. 206.

satisfy the House in this regard. But with the session of 1795 a definite policy was entered upon by the Republicans. They wished to subordinate the power of the executive to that of the House of Representatives *, and an important element in their plan was the giving to the House of Representatives absolute control over financial matters. In this part of the contest Gallatin took the lead †, and it is in large measure due to his efforts that the power of the Secretary of the Treasury was weakened, and the power of the House increased. His first measure was the appointment of a committee to oversee the operation of the Treasury department; a committee ‡ which would be an efficient aid when the Secretary of the Treasury and the House should be agreed as to policy, but which would be a troublesome enemy if such agreement did not exist. The purpose of Gallatin was to establish the expenses of the government upon a permanent footing, and to bring the accounts of the Treasury department into such shape that they could be easily understood and wisely controlled by the House of Representatives. In pursuance of this policy a controversy arose in 1796 over the appropriations for the service of the year, the Federalists claiming that the House had no business to discuss the merits of the establishments for which money had been previously appropriated. Gallatin, on the other hand, argued that the House had power "to appropriate or not to appropriate for any object whatever, whether that object was authorized or not §," and although nothing was decided by this debate, the views of Gallatin were finally accepted. In the second session of 1796, Gallatin complained that the Secretary of the Treasury was of the opinion that he had the right to take money from one appropriation where there was a surplus and apply it to another where there was a deficit. On this account he introduced a rider to an appropriation bill resolving that "the several sums shall be solely applied to the objects for which they are respectively appropriated. ‖" This bill passed and was regarded as greatly restricting the powers of the Secretary of the Treasury, but still the contest between the House and the Secretary, on the subject of regular reports, was continued. Finally, after a number of years, a law called supplementary to an act entitled "An act to establish the Treasury department, **" was intro-

*That the main plan underlying this struggle was to place more power in the hands of the House of Representatives, is seen in the controversy over Jay's treaty. Thus Madison said the question was "whether the general power of making treaties supersedes the powers of the House of Representatives, particularly specified in the constitution, so as to give the executive all deliberative will, and leave the House only an executive and a ministerial legislative agency." J. A. Stevens, Life of Gallatin, p. 114.

†Ibid., pp. 109-134.

‡Committee of Ways and Means. See Part C. of this paper.

§Stevens, Life of Gallatin, p. 112.

‖Ibid., p. 134.

**Peters, Vol. II., Chap. 58, p. 79.

duced in the Senate, was agreed to by the House, and was signed by the President on May 10th, 1800. It provided that "it shall be the duty of the Secretary of the Treasury to digest, prepare and lay before Congress at the beginning of each session, a report on the subject of finance, containing estimates of the public revenue and the public expenditure, and plans for improving or increasing the revenues, from time to time, for the purpose of giving information to Congress, in adopting modes of raising money requisite to meet the public expenditures.*" By this law it became the duty of the Secretary of the Treasury to furnish a report of the financial condition of the government, upon which the committee of Ways and Means would be able to base its plans for the budget of the year. The law undoubtedly increased the power of Congress over money matters, and this power was still further increased by the creation of a House committee of Ways and Means, with well defined duties and privileges. From this time on, the control of the Secretary of the Treasury grew weaker and weaker, until finally the House, through the committee of Ways and Means, became the sole judge of all kinds of budgetary legislation. Occasionally there was a Secretary who, by superior force of character, so imbued the house with a belief in his ability to manage the finances that his plans were accepted almost without question, but as a general rule the chairman of the Ways and Means committee had far greater influence than the Secretary of the Treasury, in the preparation of financial measures.

The Secretary of the Treasury has, today, a great power over the expenditure of money once that money has been appropriated by Congress, but his ability to direct financial legislation is limited to advice. This limitation was brought about by the action of the House in the years from 1792 to 1800. The House had, then, early recognized the necessity of watchfulness of the executive branch of the government, but had not as yet been brought to fear any attack upon its special privilege from the upper house of the legislature.

III. Twenty-second Congress, 1833. Clay's Tariff Bill. Senate discussion on the question of the right of the Senate to originate revenue bills.

On February 12, 1833, Mr. Clay asked leave to introduce into the Senate a bill "to modify the various acts imposing duties on imports."† The existing tariff law had proven very distasteful to the southern states and also to some Senators from the northern states.

*A peculiar fact in connection with this law is that Gallatin, although heartily sympathising with the purpose of the measure, voted and spoke against it because he considered that the Senate was in this case really originating a money bill and so violating the privilege of the House.

†Cong. Deb., Vol. IX, pt. 1, p. 462.

The bitter antagonism between parties and states, resulting from the clash of selfish interests, seemed to threaten the disruption of the Union and the overthrow of the national government. It was evident that some compromise was necessary by which peace might be restored and prosperity insured, and it was with this purpose in view that the bill to modify the tariff was brought forward. Compromise was the central idea of the framer of the bill, and of a majority of the Senate, so that it is not a matter of surprise that in the long discussion which followed very little was said as to the constitutional right of the Senate to originate revenue bills. Such discussion as did take place was confined largely to the motion for leave to introduce the bill, yet that discussion is of importance inasmuch as it shows the fear which certain senators had of trenching upon the constitutional privilege of the House of Representatives.

In his opening speech, Mr. Clay, referring to the right of the Senate to originate such a bill, said: "I owe, sir, an apology to the Senate for this course of action, because, although strictly parliamentary, it is nevertheless out of the usual course of this body."* The moment he ceased speaking, the point of attack which he had thus suggested was assailed by Mr. Forsythe, who, while he admitted that the main purpose of the bill was in every way worthy of approval, said that besides having minor faults, "the bill was a violation of the constitution, because the Senate had no power to raise revenue and that he opposed the introduction of the bill as a revenue measure, and upon it demanded the yeas and nays."† This objection precipitated a protracted debate in which many senators took part, although no speech was confined exclusively to the constitutional question. In reply to Mr. Forsythe's objections, Mr. Poindexter said, "As to the constitutional point, the only violation of the rule prohibiting the Senate from originating a bill raising revenue would take place at the consummation, not at the inception of the measure."‡ This was certainly a curious interpretation, and, whether correct or not, was an injudicious one, inasmuch as it would be foolish for the Senate to discuss at length any bill which it had no right to pass. Mr. Clay made a new point, however, in replying to Mr. Forsythe. He called the attention of the Senate to the fact that "the bill was not a bill to raise duties, but to reduce them, and therefore did not come within the reach of an equitable objection. If it had been a bill to raise the rate of duties the objection to it would have been a valid one. * * * The constitution says that all bills to raise revenue shall

* Cong. Deb., Vol. IX, pt. I. p. 462.
† Ibid., p. 473.
‡ Ibid., p. 474.

originate in the House of Representatives. This was a bill to reduce the duties, except in a single clause, and that clause relates to the act, which had not yet gone into operation. * * * He did not believe that it was the intention of the constitution so far to restrict the right of the senate as to preclude the origination of a bill to repeal an existing law."* Probably this was the first important occasion upon which a distinction between raising revenue and reducing revenue was made. This point became the point in controversy between House and Senate at a later day, but at this time the House had no opportunity to discuss the queston. Mr. Dickerson disagreed with Mr. Clay's interpretation of the constitution: "Such a bill as this could not originate in the senate. * * * To raise revenue was entirely a distinct thing from a mere question of the modification of duties. The term as used in the constitution implies the collecting and bringing money into the treasury."† Mr. Webster stated in reply that "by its title the bill could hardly be rejected as a bill for raising revenue, which ought to originate in the other House,"‡ and that he should vote for the leave to introduce it. His position at this time is possibly, and yet not necessarily, at variance with his later speech against the entire bill.

Mr. Clay's assertion that the bill proposed to reduce and not to raise revenue and that it did not, therefore, come under the constitutional restriction upon the Senate, satisfied most of those who had previously opposed its introduction. Mr. Dickerson was not satisfied, but Mr. Forsythe now altered his argument and stated that while he could not see any constitutional objection to Senatorial action upon a bill to reduce the revenue, yet the one clause which Mr. Clay had admitted was intended to raise duties was sufficient to cause his original objection to hold good. He therefore moved to strike out that clause.§ The Senate, however, refused to alter the bill, and leave was given to introduce it.‖

At the time when Mr. Clay's tariff bill was introduced the Senate was engaged in the consideration of the revenue collection bill, so that it was not until February 19 that the tariff bill was reported back** from the special committee to which it had been sent. On February 21 it was made a special order.†† Meanwhile a tariff bill, not at all similar to Mr. Clay's, had been introduced in the House,

* Cong. Deb., Vol. IX, pt. I, p. 477.
† Ibid., p. 478.
‡ Ibid., p. 478.
§ Ibid., p. 480.
‖ Ibid., p. 481.
** Ibid., p. 601.
†† Ibid., p. 690.

and had been vigorously discussed with little probability of being passed before the end of the session. When the Senate bill became a special order but seven business days of the session were left. Under these circumstances the constitutional point was barely touched upon in the first part of the debate, and did not come up again until the closing arguments were made. A point of curious interest which did, however, arise early in the debate, is the changed attitude of Mr. Forsythe, who had first objected to the whole bill as unconstitutional and afterwards had restricted his objection to the one clause of the bill which provided for the raising of duties. He next declared himself in favor of the passage of the entire bill, objectionable clause included, on the ground that since the bill was introduced and "having originated in the Senate notwithstanding the constitution, he could perceive no prohibition against its passage."*

The main argument against the constitutionality of the bill was that made by Mr. Webster. His argument was: "The constitutional question must be regarded as important; but it was one which could not be settled by the Senate: it was purely a question of privilege and the decision of it belonged alone to the House. The Senate by the constitution could not originate bills for raising revenue. It was of no consequence whether the rate of duty was increased or decreased: if it was a money bill it belonged to the House to originate it. This subject belonged exclusively to the House of Representatives."† In reply Mr. Clay reiterated his statement that the bill "might be constitutionally passed by the Senate, because it was not a bill for raising revenue,"‡ yet several senators now affirmed that they could not vote for the bill because it had originated in the Senate. It is probable that a majority vote could have been secured for the measure in spite of these objections, but its passage was regarded as doubtful by Mr. Clay, and a plan was at once prepared by which the danger of defeat might be lessened. On February 26, after the House tariff bill had been debated some three weeks, a motion§ was made to amend that bill by striking out all but the enacting clause, and substituting the Senate bill. In spite of angry comment on the part of the opposition this was done, and the bill as amended was rushed through the House and sent to the Senate, February 27.‖ The Senate, being assured by Mr. Clay that the House bill was identical with his own, laid both bills upon the table and then took up for consideration the House bill. This silenced all opposition on the ground of unconsti-

*Cong. Deb., Vol. IX, pt. I, p. 719.
†Ibid., p. 722.
‡Ibid., p. 723.
§Ibid., pt. II, p. 1772.
‖Ibid., pt. I, p. 785.

tutionality. All that Mr. Clay said in favoring the acceptance of the House bill was that "it would obviate the reasons for a longer continuance of a laborious day's session of this body, and also supersede the objections of some Senators who believed the Senate was not the proper place for the origin of this bill."* March 1st the House bill was passed by the Senate.†

The most important feature of the debates in this Congress upon the power of the Senate to originate the tariff measure is that a majority of the members of the Senate did not think that the restriction in favor of the House applied to the case in hand. For that majority the argument of Mr. Clay was sufficient, namely that the bill was not specifically a bill to raise revenue. The main reason why the bill was not pressed in the Senate was a fear on the part of its author that it might be defeated at the last moment by some of those who were opposed to it on grounds of unconstitutionality solely. It was the better plan to deprive these gentlemen of their excuse for voting against the bill. The fact that the Senate bill was withdrawn and the House bill substituted was a fortunate outcome of the difficulty, but it was not regarded as a precedent by later Senates. The House had made no objection to the Senate's action because that action had not come before it for consideration. The Senate had merely made a concession to some few of its own members. The question of its right to originate revenue bills was not settled, and the method by which it might claim the right by making a distinction between raising revenue and reducing revenue had now been indicated and was later to occasion a breach between the two branches of Congress. In one other way also the debate had outlined the only method by which this question could be settled. Mr. Webster had correctly interpreted the situation when he said it was purely a question of privilege, and the decision of it belonged alone to the House. When the House should once decide the extent of its privilege the Senate would be compelled to acquiesce in that decision.

IV. Twenty-fifth Congress, 1837. Debate in the House on the Senate bill to authorize the issue of Treasury notes.

September 13, 1837, a bill‡ was reported to the Senate, authorizing the issue of Treasury notes for certain purposes. In the discussion of this bill in the Senate, the possible impropriety of its originating there was not mentioned, and on September 18 the bill was passed§ and sent to the House. September 30, in committee of

*Cong. Deb., Vol. IX, pt. I, pp. 749-50.
†Ibid., p. 809.
‡Ibid., Vol. XIV., pt. I, p. 9.
§Ibid., p. 75.

the whole, the House took up the bill,* and a brief discu once ensued as to the right of the Senate to originate such a Mr. Bell, of Tennessee, was the first to suggest the unconstitu of the bill, and was followed by Mr. Adams, of Massachus said "that in his opinion the matter admitted of no questio If there ever was a money bill this was one. * * * This House long suffered the other branch of the legislature to dictate to measure relating to the revenues.†" Mr. Robertson, of argued in the same line. Mr. Cambreling, of New York, c of the Ways and Means committee, saw no real objection to on the ground that it had originated in the Senate, but in prevent further opposition, moved to take up the House bill same subject. This was done‡, and the House bill sent to th and passed by that body.

The debate attracted little attention, and is of interest m the first objection by the House to the reception of Senate bi rectly bearing on the revenue. In the case of the Clay com bill, the House had itself taken no part in the discussion, a its action had relieved the Senate of the fear of violating the tution. In this instance the House established a precedent, a cated a sense of its own privilege.

V. Twenty-eighth Congress, 1843-44. Debate in the Senat tariff bill introduced by Mr. McDuffee, of South Carolina.

December 19, 1843, a bill was introduced § in the Senate l McDuffee, of South Carolina, providing for a return to th compromise tariff of 1833. The bill was referred to the com on finance notwithstanding the objection made by Mr. King the Senate had no right to originate it, and on January 9, 184 reported back by Mr. Evans** with the following resolution i its consideration: "Resolved, that the bill entitled 'a bill to the act of the 2nd of March, 1833, usually called the compr act, and to modify the existing duties upon foreign imports in formity with its provisions' is a bill for raising revenue with meaning of the 7th section of the 1st article of the constitution cannot therefore originate in the Senate: therefore resolved, t be indefinitely postponed."††

The reason for this action was the desire of a majority o the Senators to avoid a discussion of the tariff question. Som

* Cong. Deb., Vol. XIV., pt. I, p. 1152.
† Ibid., p. 1152.
‡ Ibid., p. 1153.
§ Cong. Globe, I. Sess. 28 Cong., p. 47.
‖ Ibid., p. 47.
** Ibid., p. 121.
†† Ibid., p. 121

doubt, honestly favored the resolution on constitutional grounds, and in the final vote but four Senators voted against the constitutional doctrine expressed therein. It was on the constitutional question, however, that the debate was begun. Mr. Evans opened the discussion on January 18, and his argument practically embraced all that was urged against the constitutionality of the bill. He asserted that "the whole question turned upon the meaning of the words 'raising revenue.' In the present instance but one meaning could be received, in as much as the avowed object of the framer of the bill was, by reduction of the duties of importation, to increase the revenue by thus creating a greater demand. It might be argued that it is not a bill for raising revenue, but to reduce duties, 'duties' being equivalent to the word revenue. This argument * * * is not substantial. * * And if admitted that the reduction of duties sought for by this bill will, by enlarging our commerce and holding out a bonus to our merchants and ship owners to increase their traffic, add to that revenue, then the question is at once set at rest, and the Senate has no power to originate such a measure.*" Thus accepting the definition of the word "raise" as opposed to "reduce," Mr. Evans still objected to the introduction of this bill. He had previously asserted that the sole object of the committee in reporting the resolution was to obtain the opinion of the Senate in regard to the right of origination, and it followed that the committee desired to prevent the Senate from discussing the tariff itself. The Chair, however, decided† that the entire subject matter of the bill was open for discussion, and under this ruling little attention was paid to the constitutional objection, although the debate was renewed nearly every day from January 19 to May 31. In the beginning it was confined largely to the substance of the resolution, and Mr. Huntington went even further than Mr. Evans, saying that there was "an important distinction between the general meaning of the words to *raise* revenue, and the particular meaning of the word *raise* as applied to the increase of anything. To raise revenue signified to *provide* an income, now generally applied to an income for government.‡" On the other hand Mr. Woodbury did not believe that there was any constitutional restriction in the case before the Senate: "The only limitation with regard to the Senate was in regard to bills for imposing taxation for revenue, and then the origin of such bills must be in the other House. It is only the imposition of a new tax, or duty, or the increasing of duties already existing, that the Senate is pro-

*Cong. Globe., I. Sess. 28 Cong., p. 159.
†Ibid., p. 159.
‡Ibid., p. 161.

hibited from originating."* In like manner Mr. McDuffee emphasized the plea offered in 1833, that this was a bill to reduce duties.†

Very few of the Senators even mentioned the constitutional phase of the bill. The debate was almost wholly on the tariff, although once Mr. Berrien brought the Senate back to a consideration of the resolution *per se*, remarking that "however important might be the discussion of the merits of the bill, there stood in advance of it a question far more important, which was, whether the Senate of the United States would confine its legislation within the limits of the constitution, or usurp a power which the constitution had not conferred upon it.‡" In general, however, the debate progressed with no reference to this point, and as it drew to a close, it became manifest that the bill would have no chance of passing, even if it should come before the Senate for a direct vote. Consequently it was not at first intended to permit a vote of the Senate which would show just how each member stood with regard to the matter of Mr. McDuffee's bill. But if a vote was to be demanded upon the resolution alone, many Senators who really favored the tariff bill would find it necessary to vote for the resolution preventing the introduction of that bill. Senators were afraid that their votes would not be understood. Further, a vote on the resolution alone, would appear to be a device for the shirking of responsibility for a vote on tariff reduction. Hence Mr. Allen introduced an amendment to the resolution, reading: "Resolved that the duties imposed on importations by existing laws are unjust and oppressive, and ought to be repealed, but that the bill,§" etc. On this amendment the vote stood yeas, 18; nays, 25, indicating each Senator's position on the tariff, while on the resolution itself the vote‖ was yeas, 33; nays, 4.

This overwhelming vote was another step in preserving to the House the right of originating money bills. As yet, however, the Senate had put no interpretation on the words "for raising revenue."

VI. Thirty-fourth Congress, 1855. Debate in the Senate upon the attempt of the Senate to originate general appropriation bills.

December 11th, 1855, Mr. Brodhead of Pennsylvania introduced into the Senate a resolution,** "that the committee on finance be directed to inquire into the expediency of reporting the appropriation

*Cong. Globe. I. Sess. 28 Cong., p. 160.
†Ibid., p. 165.
‡Ibid., p. 493.
§Ibid., p. 633.
‖Ibid., p. 633.
**Cong. Globe, 1855-56. pt. I, p. 160.

bills for the support of the government, or of adopting other measures with a view of obtaining more speedy action on said bills." The resolution was adopted on January 7th, 1856. Mr. Brodhead urged in its favor: first, that the House is accustomed to retain the general appropriation bills for about two hundred days, on the average, leaving the Senate only ten days in which to consider such bills; second, that such procedure is practically denying to the Senate its constitutional right of consideration; third, that the Senate possesses the power of originating appropriation bills, for the constitutional provision reads "All bills for raising revenue," whereas the original proposition in the federal convention was definitely extended to appropriating money also, and that since mention of this power was omitted afterwards it was evidently the intention of the framers of the constitution to leave it with the Senate;* fourth, that the Senate already exercises the power in bills which render necessary the expenditure of money. The resolution aroused little discussion at the time it was voted upon. When introduced there seemed to be some excuse for it as the House was undergoing a protracted contest over the election of Speaker, so that public business was greatly delayed. But when the finance committee, on February 4th, 1856, introduced a resolution in accord with Mr. Brodhead's proposal, some members were strongly opposed to the innovation. The resolution provided: "That the committee on finance be instructed to prepare and report such of the general appropriation bills as they may deem expedient."†

Mr. Seward of New York stated the principal objection to the resolution, and as this was the first occasion upon which the Senate debated its right to originate a general appropriation bill, the essential portions of his argument are given at length. "The government," he said, "has been in operation since the year 1789, a period of more than half a century, and never yet has a general appropriation bill been prepared, or reported or submitted to the Senate, or sent to the House of Representatives from this body. On the other hand the practice has been that all appropriation bills of that character have originated in the House of Representatives and have been sent to this house for its concurrence and amendment. As this, then, is a proposition, made not only for the first time within our own experience, but for the first time since the foundation of the government, we are to presume that it will be admitted that what is proposed is an innovation, a direct, specific and effective innovation. * * * I am not going to contend that the provision of the constitution, which I have

*See Elliot's Debates, Vol. I, p. 206.
†Cong. Globe, 1855-56, pt. I, p. 375.

read, by its letter forbids the Senate from originating appropriation bills; its letter clearly concedes it, and I concede also that there is an argument to be drawn from the fact that the convention discussed the proposition in both its shapes, and finally adopted the one which we now find, in which the limitation is applied only to bills originating revenue, that the convention may have considered that appropriation bills might be originated in the Senate. But against this argument is one which seems to me perfectly conclusive, and it is this reply: Whatever the convention may have purposed * * * the fact is a stubborn one, that the Senate has never originated an appropriation bill, but that it has always conceded to the House of Representatives the origination of appropriation bills: and the House of Representatives has never conceded to the Senate the right to originate such bills, but has always insisted upon and exacted that right itself. This could not have been accidental; it was therefore designed. The design and purpose were those of the contemporaries of the constitution themselves, and it evinces their understanding of the subject, which was that bills of a general nature for appropriating public money, or for laying taxes or burdens on the people, direct or indirect in their operation, belonged to the province of the House of Representatives."* Mr. Seward also pointed out that even if the Senate did adopt the resolution, it would be impossible for the finance committee to follow directions with success unless, what was highly improbable, the House of Representatives should give its consent. The argument of Mr. Seward includes about all of the points made against the resolution. The only new argument in its support was the peculiar one offered by Mr. Hunter,† that as the membership of the House increased bills would be more liable to be detained there, so that the supreme power would be likely to pass into the hands of the Executive, and that for this reason the Senate should originate appropriation bills, in order that the legislature might retain its accustomed power.

Both sides, however, seemed afraid to touch upon the real question at issue, whether the Senate should be allowed to increase its power at a time when the Senate and the House were on the point of differing as to the policy of the government. The great question of the day was with regard to the Nebraska-Kansas trouble. A very slight majority of the House was in favor of the Free Soil party in Kansas, while a large majority in the Senate favored the slavery party. The desire of the Senate to originate appropriation bills was looked upon as an attempt on the part of the friends of the South to compensate

*Cong. Globe, 1855-56, pt. I, pp. 375-6.
†Ibid., pp. 377-8.

themselves for a loss of influence in the House. Although none of the speeches boldly stated this to be the real question at issue, yet various members of the minority, broadly hinted that they understood perfectly the plan of their political opponents. Mr. Sumner* said: "Mr. President, it is a received maxim that it is the part of a good judge to amplify his jurisdiction; but it will hardly be accepted that it is the part of the American Senate to amplify its powers, particularly in derogation of the popular branch. And it surely cannot escape observation that the present effort is launched at a moment when the popular branch promises to differ from the Senate on important questions of national policy." In the same vein Mr. Wilson† said: "Now Sir, we are called upon at this time to depart from that practice, and permit me to say that the time is not well chosen. The public voice of the country will say that, at this juncture, in the peculiar position of affairs in the House of Representatives and in the country, the Senate of the United States is extending its powers and its influence in the government of the country at the expense of the popular branch of the government."

In spite of the persistent opposition of a compact minority, the the resolution was passed. But although the Senate might resolve that it had the constitutional right to originate appropriation bills, it soon found that Mr. Seward was right when he said that such a resolution would be useless if the House should refuse to comply with its demands. In accordance with the resolution the committee prepared general appropriation bills on the subjects of invalid pensions and the repairs of fortifications. Both these bills passed the Senate and were sent to the House, but were laid upon the table by that body without being referred to any committee, and without debate, April 17, 1856. This was the method by which the House indicated that it had no intention of permitting the Senate to usurp its powers. Thus was established a principle which it is not at all certain was intended by the framers of the constitution. One definite attempt upon the part of the Senate to secure the privilege claimed was practically all that was necessary to settle this question; while in the case of the definite provision of the constitution there had already been several debates and there was yet to be discussion as to the exact meaning of a word.

*Cong. Globe, 1855-56, pt. I, p. 380.
†Ibid., p. 381

VII. Thirty-fifth Congress, 1859. House objects to Senate amendment to Postoffice Appropriation Bill. Bill and substitutes offered fail to pass.

During the latter part of the second session of the thirty-fifth Congress a postoffice appropriation bill, involving about $7,000,000, passed the House. The Senate, having added an amendment changing somewhat the rates of postage and in some cases increasing them, passed the bill and returned it to the House March 1, but two days before the close of the session.* No debate seems to have arisen in the Senate over the constitutional privilege of the House to raise revenue, although the House and Senate had already in this session been in controversy over a Senate amendment to a House appropriation bill, by which the sum to be appropriated had been increased. When, however, the amended postoffice bill was received in the House, attention was directed to the nature of the amendment, and on March 2 Mr. Grow, of Pennsylvania, acting upon an arrangement with the chairman of the Ways and Means committee, Mr. Phelps, offered a resolution reading, "Resolved, that House bill No. 872, making appropriations for defraying the expenses of the postoffice department for the year ending the 30th of June, 1860, with the Senate amendments thereto, be returned to the Senate, as the thirteenth section of said amendments is in the nature of a revenue bill."‡ The next day the resolution came up for consideration,§ but at that date there was not time to debate it at length. Mr. Phelps made the only important statement against its adoption, while Mr. Grow gave the only argument in its favor. Mr. Grow said "I do not rise to argue the question, but merely to state my point. This thirteenth section proposes to increase the present rates of postage to five cents and in some cases to ten cents; which would increase the taxation on those who use the mails."‖ Mr. Phelps in reply said the amendment did not come within the meaning of the constitutional restriction,** but after some hesitation agreed to permit a vote upon the resolution and it was adopted by a vote of 117 to 76. It is not likely that the House, in this instance, realized that a great constitutional privilege was in danger. Some members were undoubtedly in earnest in maintaining the privilege of the House; others may have wished to delay the bill until the close of the session and by thus preventing its passage to embarrass the President, for House and President were not in harmony; others may have desired revenge for

* Cong. Globe, 1858-59. p. 1520.
‡ Ibid., p. 1600.
§ Ibid., p. 1666.
‖ Ibid., p. 1666.
** Ibid., p. 1666.

a recent humiliation in having been compelled to pass a Senate amendment to the general appropriation bill on the issue of treasury notes. No one reason would have sufficed to secure a majority for the resolution. In any case there can be no doubt that many who voted for it expected either that the Senate would recall the obnoxious amendment or that a new postoffice bill would be rushed through in the closing hours.

The resolution and bill were at once sent to the Senate and the resolution was read to that body.* Without debate Mr. Crittenden, by unanimous consent, reported the following resolution, which was agreed to by the Senate: "Resolved, that the Senate and House being of right equally competent, each to judge of the propriety and constitutionality of its own action, the Senate has exercised said right in its action on the amendments sent to the House, leaving to the House its right to adopt or reject each of said amendments at its pleasure: Resolved that this resolution be communicated to the House of Representatives, and that the bill and amendments aforesaid be transmitted therewith."† By this move the Senate evidently thought to throw the responsibility for the failure of the bill upon the House. In still another way perhaps the Senate might virtually be the victor in the contest, in case the house should withdraw its constitutional objection and ask for a conference committee on the question of advisability merely.

The House received the resolution of the Senate‡ and was ready with a new method of attack, which, however left the constitutional question in suspense. Mr. Phelps, from the committee of Ways and Means, reported a new postoffice bill which was read a first and second time, ordered to be engrossed, read a third time, and passed without debate.§ Then the bill was sent to the Senate. This was the same bill as that originally sent from the House, and brought the Senate to face a double difficulty inasmuch as it was without the many Senate amendments, and the responsibility for failure to pass could not but fall on the upper House. The bill reached the Senate at half-past twelve o'clock,‖ and those Senators who were most earnest in their endeavors to secure its passage, or the passage of some postoffice appropriation bill, quickly concluded that the course of the Senate must be modified somewhat. Mr. Stuart moved the appointment of a conference committee. This was a favorable opportunity for interference on the part of those Senators who did not

*Cong. Globe, 1858-59, p. 1634.
†Ibid., p. 1634.
‡Ibid., p. 1674.
§Ibid., p. 1674.
‖Ibid., p. 1648.

wish any postoffice bill to pass, and technical objection was at once made that there was as yet no disagreement between the Senate and the House. Finally, however, the conference committee was appointed,* composed of Messrs. Stuart, Pearce and Foot. The House at once responded by the appointment of a like committee,† composed of Mr. Letcher, Mr. Branch, and Mr. Grow, although several members objected to the appointment of the committee. The report of this committee was unanimous, and the resolution reported was "that while neither House is understood to waive any constitutional right, which they may respectively consider to belong to them, it be recommended to the House to pass the accompanying bill, and that the Senate concur in the same when it shall be sent to them."‡ This third bill merely provided for the necessary expense of the postoffice department, yet was in the main the original bill of the House. It was passed§ by the House without material objection, but when it reached the Senate just one hour before the expiration of the session, Mr. Toombs‖ announced that he considered the action of the Senate members of the conference committee as a complete betrayal of the rights of the Senate, and that he should object to the consideration of the bill. In this determination he was supported by many others, so that finally while he was making a speech** defending his position, the Vice-President interrupted him in order to declare the Senate adjourned *sine die*.

The bill, therefore, had failed to pass in any form, and Mr. Douglass†† may have been right in thinking that the Senate was refusing to consider a necessary appropriation, because of an overestimation of its own dignity. The passage or non-passage of the bill, however, does not present the main point of interest in this study, for the resolution introduced by Mr. Grow is after all the essential thing to consider. All that can be said in regard to it, however, is that the House asserted its privilege and refused to yield to the browbeating of the Senate. This contest between the two Houses was like many others, yet it derives a peculiar interest from the troublous times in which it occurred, and from the rapidity with which one move followed another, for with the exception of the introduction of the Grow resolution, March 2, all that passed between the two Houses occurred on March 3, the last day of this session of Congress.

*Cong. Globe, 1858-59, p. 1646.
†Ibid., p. 1682.
‡Ibid., p. 1661, and pp. 1683-4.
§Ibid., p. 1684.
‖Ibid., p. 1662.
**Ibid., p. 1663.
††Ibid., p. 1663.

VIII. Forty-first Congress, 1871. Debate in Senate and in House over a bill introduced in the Senate to reduce the income tax.

December 6, 1870, Mr. Scott introduced in the Senate a bill to repeal so much of the act of July 14, 1870, dealing with internal taxes, as continued the income tax after December 31, 1869.* The bill was referred† to the committee on Finance December 8, and was reported adversely‡ December 16, but was placed upon the calendar by the advice of Mr. Sherman. By vote of the Senate, the bill was made a special order§ for January 25, 1871, and on that day Mr. Scott made a long speech in its favor, but did not once mention the possibility that the bill might be rejected by the House on constitutional grounds. Many Senators spoke, but no one hinted that the Senate had not the right of origination, and on January 26 the bill passed‖ the Senate by a vote of 26 to 25.

The House received** the bill January 27. Shortly after the message from the upper house had been read, Mr. Hooper, of Massachusetts, arose to a question of privilege and presented the following resolution, "that the Senate bill No. 1083 be returned to that body with the respectful suggestion on the part of the House that section VII., article I. of the constitution vests in the House of Representatives the sole power to originate such measures."†† Mr. Randall objected that this was not a question of privilege, but was overruled by the Chair, who referred to the action of the House in the Thirty-fifth Congress, in the case of the postoffice appropriation bill. The previous question was ordered and the resolution adopted,‡‡ so that no debate whatever occurred at this stage of the proceedings. The bill and resolution were returned§§ to the Senate January 30, where, under the rules of the Senate, they would come up for consideration the next morning.

The next day Mr. Scott‖‖ moved that the Senate ask for a conference committee, and gave for his reason the usual argument that the bill was one to reduce and not to raise revenue. He also noted that the Senate had certainly been in the habit of originating bills which involved the raising or the spending of money, and that if the House was correct in its position, then "the Senate must stop introducing

* Cong. Globe, 1870-71, pt. I. p. 18.
† Ibid., p. 40.
‡ Ibid., p. 143.
§ Ibid., p. 720.
‖ Ibid., p. 755.
** Ibid., p. 790.
†† Ibid., p. 791.
‡‡ Ibid., p. 791.
§§ Ibid., p. 815.
‖‖ Ibid., pt. II, pp. 843-45.

For these reasons it is asserted that the Senate has the constitutional right "first, to originate appropriation bills; second, to originate bills for fixing the salaries of the officers of the government; and third, that money may be drawn from the Treasury upon appropriations which do not originate in the House of Representatives."* In support of these conclusions, history is appealed to and sixteen laws originating in the Senate and passed by the House are enumerated, which involve either an increase in revenue, a reduction of revenue, or the expenditure of money. Writers recognized as authorities on constitutional interpretation are cited as upholding the Senate's position, and finally the committee maintained "that according to the true intent and meaning of the seventh section of the first article of the constitution, 'bills for raising revenue' are those bills only the direct purpose of which is to raise revenue by laying and collecting taxes, duties, imposts, or excises, and that a bill may originate in the Senate to repeal a law or a portion of a law which imposes taxes, duties, imposts, or excises."†

The report of the committee was never debated in the Senate, nor was there any definite motion of adherence, yet it undoubtedly expressed the opinion of a majority of Senators, and is by far the most important statement of the Senate position in the matter, though it by no means follows that a majority of the Senate would ever insist upon pressing this interpretation against the expressed will of the House. In the House the report of the conference committee came up for discussion ‡ March 3, a day after the report made in the Senate. The resolution of the House committee was "that this House maintains that it is its sole and exclusive privilege to originate all bills directly affecting the revenue, whether such bills be for the imposition, reduction, or repeal of taxes; and in the exercise of this privilege, in the first instance, to limit and appoint the ends, purposes, considerations, and limitations of such bills, whether relating to the matter, manner, measure, or time of their introduction, subject to the right of the Senate to 'propose and concur with amendments as on other bills.'" § This brief resolution was the most comprehensive presentation yet made of the position of the House, and forms, together with the resolution on Senate amendments in the succeeding Congress, the best statement of the determination of the House to guard its privilege. There was no protracted debate upon the resolution. Mr. Butler, referring to the bill which had aroused the first discussion, voiced the sentiments of nearly the whole House

*Cong. Globe, 1870-71, pt. III, p. 1874.
†Ibid., p. 1873.
‡Ibid., p. 1928.
§Ibid., p. 1928.

in stating that "cutting off one tax is in fact always equivalent in contemplation of law, to raising another."* Mr. Garfield, Mr. Logan, Mr. Hooper, Mr. Allison, and Mr. Lawrence made brief speeches on the necessity of guarding the privilege of the House, and Mr. Garfield asked and secured leave to print a statement† which was intended as an answer to the long report of the Senate committee. Without division the House agreed ‡ to the report and thus took one more step in establishing its control over revenue.

In this debate between Sen ate and House party politics had no place, for the leaders in each house were members of the same political party. This then was a question solely between the two houses as such, and it is undoubtedly for this reason that so much care was taken to substantiate statements and that the statements of privilege were made so broadly. The House defended its privilege and in doing so attacked the custom of the Senate. The essence of the whole matter is to be found in a speech by Mr. Wood in the House on March 3. He said "The time has arrived when the popular branch of the governmen of this country must maintain its authority, when the power centered in the Executive, when the power centered in the higher branch o Congress, which represents a very small minority of the American people, shall yield up the prerogative which belongs to this body." In this developing assurance of the House, in its determination to control legislation, lies the secret of the earnestness with which it conducted the contest. The House had adopted a resolution which stood as a warning to future Senates, and but one more step wa necessary to assume absolute control of money matters of whatever nature, and in the next Congress that step was taken.

IV. *Forty-second Congress, 1871-72. Contest between House and Senate on attempt of Senate to make amendment to House bill to repeal duties on tea and coffee.*

In the second session of the 42 Congress, February 14, 1872 a bill was reported‖ to the House by the committee of Ways and Means, to repeal the existing duties on tea and coffee. The committee was opposed to the bill, but had been instructed by the House to report it, and February 19 it was passed** by a large majority The question of the day, which was interesting both houses, was tariff reduction. The surplus for the ensuing year had been estimated all th

[illegible]

way from eighty to one hundred million dollars, and both houses were preparing bills for a general reduction. The committee of Ways and Means had thought that the question of a reduction of duties on tea and coffee might very well be left for consideration in the general tariff bill, but the House ordered otherwise.

When the bill reached the Senate it was referred* to the Finance committee and was reported† adversely March 15 and indefinitely postponed, but was taken up‡ March 26 upon the motion of Mr. Scott. No sooner was the bill before the Senate for consideration than one Senator after another moved to amend by adding some article to the free list, and it became evident that it was the purpose of the Senate to make this two line bill of the House the basis of a general tariff bill. While these amendments were being proposed no mention was made of the right of origination of the House, or of the fact that a bill so materially amended had practically originated in the Senate. Mr. Scott now offered an amendment to the tea and coffee bill which practically covered the same ground as his bill of the previous Congress which the House had refused to pass. The objection was made by Mr. Sherman§ that it would certainly be distasteful to the House and would possibly bring about another controversy over constitutional privileges. Mr. Sherman had already stated that in his opinion the Senate certainly had the right to amend the bill under discussion by repealing the internal tax,‖ but that he knew it to be the opinion of the House that an amendment must be germane** to the subject matter. Mr. Edmunds and Mr. Conkling believed that the Senate had the right to amend in any way,†† but nearly all debate turned upon the advisability of the repeal of the tax, rather than upon the right of the Senate to make the amendment, and the bill passed, March 28, by a vote of 35 to 4, though Mr. Scott's amendment had but 28 yeas to 11 nays.‡‡

Mr. Sherman said that he believed Mr. Scott's amendment had been made to defeat the bill.§§ Certainly the House could not be blamed if it should view with suspicion a bill which had grown in the Senate from two lines to twenty pages, and whose very title had been changed. Soon after the bill was sent back to the House, Mr. Dawes, April 2, submitted a resolution "That the substitution by the Senate,

*Cong. Globe, 1871-72, pt. II, p. 1126.
†Ibid., p. 1700.
‡Ibid., pt. III, p. 1967.
§Ibid., p. 2037.
‖Ibid., p. 1977.
**Ibid., p. 2040.
††Ibid., p. 2040.
‡‡Ibid., pt. III, p. 2044.
§§Ibid., p. 2044.

under the form of an amendment, for the bill of the House (H. R. No. 1537) entitled 'An act to repeal existing duties on tea and coffee,' of a bill entitled 'An act to reduce existing taxes,' * * * is in conflict with the true intent and purpose of that clause of the constitution which requires that 'all bills for raising revenue shall originate in the House of Representatives,' and that therefore said substitute for House bill No. 1537 do lie upon the table."* The clerk of the House was also directed to inform the Senate of the purport of the resolution if the House should see fit to adopt it. The debate which ensued was all upon one side, and the names which follow indicate that the best talent of the House was engaged in defending the House privilege. Mr. Dawes, referring to the discussion over the Scott bill of the previous Congress, said: "The same proposition is now before the Senate in a little different form. The bill which now comes back from the Senate * * * is a bill embracing a general revision not only of import duties, but of another entire and distinct field of taxation, that of internal revenue. * * * That provision of the constitution which guarantees to the people's representatives the right to originate all bills of this character seems, if the view of the Senate is correct, to be entirely nugatory."† Mr. Cox argued that "the amendment made by the other body, under the provision of the constitution * * * must be pertinent to our bill,"‡ and Mr. Eldridge said, "If their right to amendment is unlimited, then our right amounts to nothing whatever. It is the merest mockery to assert any right. * * * It is clear to my mind that the Senate's power to amend is limited to the subject matter of the bill."§ Mr. Garfield remarked: "If that bill from the Senate, now on your table, Mr. Speaker, be recognized by us we shall have surrendered absolutely not only the letter but the spirit of the rule hitherto adopted, and with it our exclusive privilege under the constitution."‖ Mr. Butler said: "In my judgment that limit (upon amendment) is this: they may perfect a bill sent them by the House; they may amend the body of such bill; they may propose amendments adding to or reducing the amount of revenue upon the subject matter of the bill, and nothing further. They must stop there."** Mr. Hale declared that "this restriction as to the right of originating revenue bills is worth nothing to the House unless it carries with it * * * a limitation of the right of the Senate to amend,"†† and

*Cong. Globe, 1871-72, pt. III, p. 2105.
†Ibid., p. 2105.
‡Ibid., p. 2106.
§Ibid., p. 2107.
‖Ibid., p. 2107.
**Ibid., p. 2108.
††Ibid., p. 2108.

finally the jealousy of the House and its determination to limit the Senate's power, and to secure its own, was shown in a speech by Mr. Hoar,* in which he attacked Senatorial encroachment upon the Presidential right of appointment. The House agreed to the resolution of Mr. Dawes by a vote of 153 ayes to 9 nays, 78 not voting.

The message with the House resolution, received in the Senate April 2, was laid upon the table. April 8, the resolution was referred† to the Finance committee but without debate, Mr. Sherman merely remarking that the right of the Senate to amend in the case in question was undoubted. April 10, the resolution was reported back with a recommendation that it be sent to the committee on Privileges and Elections,‡ on the ground that the Finance committee had already indicated its opinion on the subject. This was done and April 24 a report§ was made upholding the general position taken by the Senate but disapproving the Senate's action in amending the bill in question.

There was never any debate in the Senate on the report, nor did the Senate definitely agree to the report, although leave was given to print extra copies.

This comparatively short report‖ of the committee on Privileges and Elections is for the greater part one of the most logical documents in the long series of debates upon the constitutional provision in question. A synopsis of the main points of the report follows: 1st. The Senate right to amend can only be understood by noting what were the conditions in England between Commons and Lords. There the Commons had exclusive control of money bills and the Lords could in no way amend, but in the United States the House was given the right of origination, and the Senate was given the right to "amend as on other bills." 2nd. This leads to the question what the right to amend implies. Again referring to England, the Lords had power to amend any bill, except a money bill, in any way they saw fit, and hence, since the right to amend revenue bills, "as on other bills" is conferred by the constitution, the Senate has the right to amend revenue bills as it sees fit. 3rd. The Senate acknowledges that to "raise revenue" is not limited to *increase*, but includes decrease also, and also acknowledges that it has no right to so amend a bill which is not a revenue bill, so as to increase or decrease revenue. 4th. And finally the Senate had no right to amend the House bill as it did because that House bill was not a revenue bill, and some of the Senate amendments did provide for raising revenue. The last

*Cong. Globe, 1871-72, pt. III, p. 2109.
†Ibid., p. 2248.
‡Ibid., p. 2319.
§Ibid., p. 2716.
‖Senate Reports, 2 Sess., 42 Cong., No. 6 to 232., Report 146.

argument was the weak point of the report. The committee held that because the House bill totally repealed all duties on tea and coffee, it was not a revenue bill, and hence that while the Senate could add as many amendments as it pleased totally repealing duties on other articles, it had no right to so amend as to reduce and not repeal a duty, for such reduction was in the nature of a revenue measure. The committee therefore concluded "the House bill under consideration was not a bill for raising revenue within the meaning of the constitution; and therefore that while the Senate might have amended it so as to abolish duties altogether upon other articles, the Senate had no right to ingraft upon it, as it did in substance, an amendment providing, that revenue should be collected upon other articles, though at a less rate than previously fixed by law."* This conclusion has the appearance of furnishing a loophole for escape from an uncomfortable position. But by the same reasoning, if bills to totally repeal duties were not to be considered as revenue bills, the Senate could originate such measures, instead of waiting to amend.

X. Forty-sixth Congress, 1881. Report of House Judiciary committee on right of the Senate to originate a bill authorizing the purchase of grounds adjacent to the building of Printing and Engraving.

These two debates last noted, together with the contest of 1855, may be said to have settled the question at issue between the two houses. The Senate continued, however, to originate and to amend bills in such a way as virtually to exercise initiative in matters of revenue and appropriation, yet such bills did not, on their face, directly affect revenue or expenditure. Occasionally even such bills were objected to by the House, and in that case the bill invariably failed to pass. A brief account of such a case is given.

In the Senate, January 29, 1880, Mr. Jones of Florida, introduced† a bill to authorize the purchase of grounds adjacent to the building of Printing and Engraving, and this bill was passed‡ March 1. In the House it was referred,§ March 5, to the committee on Public Buildings and Grounds. This was done without any notice of the fact that the bill made necessary the appropriation of money, and March 11, on the committee's report, Mr. Atkins, chairman of the Appropriations committee, called attention to the nature of the bill, declared it to be in violation of the House privilege, and moved its

*Senate Reports, 2 Sess., 12 Cong., No. 6 to 232. Report 145.
†Cong. Record, 46 Cong., 2 Sess., pt. I, p. 591.
‡Ibid., pt. II, p. 1215.
§Ibid., p. 1342.

reference to the Judiciary committee in order that the constitutional point might be determined.* Without debate this motion was carried. Thus the subject of House privilege arose quite accidentally and attracted little interest.

The Judiciary committee offered majority and minority reports† on February 2, 1881, and was given leave to print extra copies, but this was all that was ever done with the question. Both the majority and minority reports‡ were carefully worked out. Neither report introduces any new evidence, though that of the majority is the stronger document, asserting definitely the right of the Senate to originate general appropriation bills, and making a clear cut distinction between "money bills" and "revenue bills." A decision by Chief Justice Gray of the Massachusetts Supreme Court is given, in a case involving the question of the right of the Senate of that state to originate appropriation bills. It will be remembered that the provision of the Massachusetts constitution is similar to that of the United States constitution. The decision was: "That the power to originate a bill appropriating money from the state trêasury is not limited by the constitution to the house of representatives, but resides in both branches of the legislature." (126 Mass. Rep., supplement pp. 557-602.) On the other hand the minority report cited many authorities to show that an appropriation bill was a "revenue bill" within the meaning of the constitution.

XI. Later discussions in Congress up to 1891. No contest between Senate and House, but incidental debates in both bodies.

Since the famous debate of 1872 over the right of the Senate to amend revenue bills, no similar contest has arisen between Senate and House. However, on numerous occasions the right of the Senate to originate appropriation bills has been debated in one house or the other. There are three such instances worthy of note.

The effect of the report of the Judiciary committee just noted was seen in the next session of Congress, for on June 5, 1882, Mr. Beck introduced in the Senate a resolution § calling on the Senate committee on Appropriations to introduce as soon as possible several general appropriation bills. Mr. Beck's main reason was the delay of the House in sending up the appropriation bills, and the danger of hasty consideration in the Senate. He also cited the majority report of the House Judiciary committee as giving the Senate authority to originate. Mr. Allison objected that the House had not adopted the

*Cong. Record, 46 Cong., 2 Sess., pt. II, p. 1485.
†Ibid., 3 Sess., pt. II, p. 1146.
‡House Reports, 3 Sess., 46 Cong., Vol. I, 1880-81, No. 147.
§Cong. Record, 47 Cong., 1 Sess., pt. V, p. 1408.

report of its Judiciary committee, and thought it would be unwise to adopt this resolution because "the House of Representatives have held for many years that the Senate cannot originate the appropriation bills."* Mr. Hale also opposed the resolution because "it would open all of those grave questions that have been up and settled practically for years as to the right of this body to originate appropriation bills. * * * In all these years there is to be found on the records of the House but a single report conceding that right."† Under the rules of the Senate this resolution could have been called up for vote on the following morning, but no more was heard of it. Mr. Allison and Mr. Hale, as members of the House, had already taken ground sustaining the House privilege in general, though neither had before this debated the specific question of the origination of appropriation bills. Their action in the Senate was certainly consistent with that in the House, and if Mr. Hale's statement is to be accepted the control of the House over expenditure had come to be recognized as supreme.

On the other hand the House itself did not seem to be so consistent. A discussion‡ came up April 11, 1882, over a Senate bill to provide for a deficiency in subsistence for the Indians. Objection was made as usual, and Mr. Randall, Mr. Springer, Mr. Sparks and Mr. McMillan all insisted upon a firm adherence to the right of the House to originate appropriation bills. The difficulty was overcome by the introduction of a new bill in the House and by rushing it through under a suspension of the rules. As to whether the question was to be considered as settled or not, Mr. Randall replied in the affirmative, adding "there has never been on the part of the House, so far as I recollect, anything but an affirmation of its own right to originate appropriation bills relating to the support of the government."§ From these two debates it would seem that both Senate and House had at last come to the understanding that practically *revenue* bills meant *money* bills, and that the term *raising* revenue included *reducing* revenue. The latter proposition, indeed, had not been controverted since the debate of 1871, but on the former the House reversed itself, though its decision was rendered in an indirect way. On January 23, 1885, Mr. Hurd offered a resolution‖ directing the Judiciary committee to take charge of certain bills received from the Senate, in order that the committee might report on the right of the Senate to originate bills which involved appropriations. The bill which was directly

*Cong. Record, 47 Cong., 1 Sess., pt. V, p. 4509.
†Ibid., p. 4509.
‡Ibid., pt. III, p. 2770.
§Ibid., pt. III, pp. 2770-71.
‖Ibid., 48 Cong., 2 Sess., pt. II, p. 948.

involved was what is usually called the Blair educational bill. Mr. Hurd, Mr. Hammond and Mr. Reed discussed the resolution. All three of these gentlemen had been upon the House Judiciary committee of 1881, a majority of which had decided the question in favor of the Senate, and now each took the same position as formerly.* The vote came upon a motion to lay Mr. Hurd's resolution on the table, which was carried by 128 yeas to 123 nays. The House itself had thus conceded in a measure the Senate's right. On the other hand it may well be claimed that there were so many selfish interests at stake in case of failure of the Blair bill that the vote could not be regarded as an index of House feeling.

The evidence that the Senate did not regard this vote in the House as decisive is found in the fact that the Senate has never originated the general appropriation bills. Upon one more occasion the upper house incidentally fell into debate over its constitutional right, and the sentiment seemed to prevail that while the Senate's right to originate appropriation bills was undoubted, permission from the House to go so far as to take the initiative in general appropriation bills was most improbable. The debate† arose May 15, 1888, on a proposed amendment to a pension appropriation bill, and indicated that the Senate was still disposed to originate general appropriation bills, yet did not quite dare to do so. Mr. Edmunds‡ again argued the question at length. Mr. Hoar, who had been advanced to the Senate and who, while he was a member of the House, had attacked so vigorously the encroachment of the Senate, now defended the House. His most important remark was "Gentlemen get up once in three or four years and think that the Senate ought to assert its rights; and that it can assert its rights. The Senate cannot assert its rights. As Mr. Webster originally declared it is a question which must be settled by the House of Representatives, and it has been settled and is settled, and will remain settled by the House of Representatives. It is utterly idle to treat it as otherwise."§ This is the view generally taken at present. So long, however, as the Senate has the right to originate bills, not general appropriation bills, but still appropriation bills, debate will from time to time arise in House or in Senate or between House and Senate on the interpretation of the constitutional restriction.

In reviewing this sketch of debates in Congress it is certain that the interpretation of the constitutional restriction was by no means always the same. The interpretation generally regarded as accepted by

* Cong. Record, 48 Cong., 2 Sess., pt. II, pp. 948-961.
† Ibid., 50 Cong., 1 Sess., pt. V, p. 4151 seq.
‡ Ibid., p. 4152.
§ Ibid., p. 4155.

the House today is not at all that of an earlier period, and hardly the correct one in view of the debates of the constitutional convention. While many debates in Congress seem to have arisen upon exactly the same point, yet there is a regular progression in establishing the principle which is in force today. The earlier contest was between the executive authority and the House, beginning with the debate of 1789 and closing with the law of May 10, 1800, and resulted in a victory for the latter. Then followed a growing antagonism between House and Senate, which meant that one party or the other must give way. The debate of 1833 was carried on entirely by the Senate which therein showed its disinclination to originate what it conceived to be a revenue bill, although that bill proposed to reduce duties. In 1837 the House exhibited a determination to defend its privilege, though its action was no more than an announcement of intention. In 1843, the Senate, by its vote on the Evans resolution, directly disavowed any right to originate a bill reducing the revenue. In 1855 the unsuccessful attempt of the Senate to originate general appropriation bills was a definite assurance that the House gave a broader interpretation to the constitution than that of well known commentators. The debate on the postoffice bill of 1859 was another indication of the House's position, though political considerations affected in no small degree the decision reached. The contest of 1871, on the reduction of the income tax, while it resulted in no formal agreement, must be accepted as settling the question of the Senate's right to originate bills to reduce the revenue as distinguished from bills to raise revenue. The contest of 1872, on the Senate's right to amend, showed that the House was determined that amendments must be germane to the subject matter amended. The debates which have arisen since 1872, with one or two exceptions, have indicated that the control of all great financial matters rests with the House whenever the House cares to exercise it.

The constitutional privilege merely provides that all bills for raising revenue shall originate in the House, but that the Senate may amend as on other bills. The House, however, has gradually come to assert that this constitutional provision means: first, that the House and not the Secretary of the Treasury shall plan the expenditures and receipts of the government; second, that the word "raise" in the constitution means either increase or decrease; third, that Senate amendments to House revenue bills cannot be of such a character as to alter completely the intention of the bills, but must be germane to the subject matter; fourth, that the Senate has no constitutional right to originate appropriation bills, or, in other terms, that the words "revenue bills" are equivalent to "money bills." In summarizing,

then, it is fair to say that what the letter of the constitution secures is the right of the House to originate bills which lay a tax on the people or which remove a tax, and the right of the Senate to originate appropriation bills or to amend revenue bills as it sees fit. But considering the spirit of the constitution another conclusion is reached. The privilege of the House was given for the purpose of securing to the people, through their representatives, the control of taxation. The importance of appropriations in determining taxation was not realized as it is today, nor was it expected that amendments on any measure would be made so as to alter completely its intent. The House must control appropriations and must limit Senate amendments if it is to realize fully the intention of the constitutional restriction. There are of course a great many laws enacted in each session of Congress, and originating in the Senate, which render necessary the expenditure of money, but such laws are passed merely on the sufferance of the House. The House originates all the general appropriation bills and has always done so. The purpose of the constitution is fulfilled in part, in that the House does control financial matters. It remains to be seen whether the House further fulfills the purpose of the constitution in being responsible for such control to the people of the country.

XII. Synopsis of contest in England, between Lords and Commons, over control of financial affairs.

The debates in Congress were, in many respects, very similar to financial debates in the English Parliament, and for the purposes of comparison, a brief account of the latter and of the control exercised by the House of Commons, is inserted.

In England the contest between monarch and people over the principle of self-taxation was not ended until, in 1689, the Bill of Rights finally gave control to the people. Chapter II of that document declares "that levying money for or to the use of the Crown, by pretense of prerogative, without grant of Parliament, or for longer time or in other manner than the same is or shall be granted, is illegal." Parliament never again found it necessary to assert by statute the right of self-taxation. The principle upon which rest all the liberties of the England of to-day, that the people have a right to determine through their representatives the amount and purpose of taxation, was firmly established.* But the contest now arose as to the rights of the

*Fellden in his Constitutional History of England, page 195, gives the following statutes as being those most important in limiting arbitrary taxation:
Magna Charta, 1215; *Confirmatio Chartarum*, 1297; Ordinances of 1311; Right of Tallage abolished, 1340 and 1348; King forbidden to tax wool; 1362, 1371; Benevolences declared illegal, 1484; Monopolies surrendered, 1601, 1624; 1639; Petition of Right, 1628; Ship Money and distraint of Knighthood abolished, 1641; Feudal incidents surrendered, 1660; Bill of Rights, 1689.

Commons in Parliament over matters of taxation. The Lords could not claim to represent the nation in Parliament as thoroughly as did the Commons, and it seemed but a new phase of an old principle that the Commons should possess the sole right of initiative in matters of taxation. Under Charles II the Commons made a formal assertion of such a right, although it had undoubtedly been an active principle of government for a long time. A resolution of the House of Commons in 1678 declares that "all aids and supplies to His Majesty in Parliament are the sole gift of the Commons; and all bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit and appoint in such bills, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants which ought not to be changed or altered by the House of Lords."*

This resolution was at once a protest against the amendment of money bills by the House of Lords, and an assertion of the principle that aids to the Crown are the sole gift of the Commons. The Lords did not deny the principle, and the right has long been recognized by the speech from the throne at the opening of Parliament. That portion which refers to the general condition of the nation is addressed to "My Lords and Gentlemen," while that referring to supplies is addressed to "Gentlemen of the House of Commons."† But although the Lords readily assented to the principle that aids to the Crown are the sole gift of the Commons, they have never formally renounced their right of the amendment or rejection of money bills. The two houses did not come into serious conflict on this point until 1860, when the Lords rejected a bill sent up by the Commons‡ providing for a repeal of the paper duties and an increase of the property tax. The attitude of the Commons is well summarized by Anson:§ "The Commons met this action on the part of the Lords by resolutions which set forth the privileges of the House in matters of taxation, and which while they did not deny that the Lords might have the power to reject money bills, intimated that the Commons had it always in their power so to frame money bills as to make the right of rejection nugatory. The resolutions were three in number. The first recites that the right of granting aids and supplies to the Crown is in the Commons alone. The second, that although the Lords have exercised the power of rejecting bills of several descriptions relative to taxation, by negativing the whole, yet the exercise of

*Anson, Law and Custom of the Constitution. Vol. I, p. 231.
†Chicago Tribune, Feb. 12, 1890, p. 5.
‡May, Parliamentary Practice, p. 649.
§Anson, Law and Custom of the Constitution. Vol. I, p. 233.

that power by them has not been frequent and is justly regarded by this House with peculiar jealousy, as affecting the right of the Commons to grant supplies, and to provide the ways and means for the service of the year. The third, that to guard in the future against an undue exercise of that power by the Lords, and to secure to the Commons their rightful control over taxation and supplies, this House has in its own hands the power to impose and remit taxes and to frame bills of supply, that the right of the Commons as to the matter, measure, or time may be maintained inviolate."

The Commons did not at once reintroduce the bill but in the following year the measure was again presented to the Lords, this time forming a part of the general appropriation bill, and the Lords did not dare to tamper with it.* This explains what was meant by the Commons in the resolution in saying that it is "always in the power of the Commons so to frame money bills as to make the right of rejection nugatory." It is simply the custom, familiar enough today, of tacking riders to important bills. Such a proceeding was objected to as early as 1702, when the Lords resolved "that the annexing any clause or clauses to a bill of aid or supply, the matter of which is foreign to and different from the matter of the said bill of aid or supply, is unparliamentary and tends to the destruction of the constitution of this government."† Despite such protests, the Commons have placed riders upon important bills whenever they have feared that such bills would be objectionable to the Lords, and would be rejected if presented alone. The Commons dislike to have the Lords take any active hand in the grant of supplies, yet under certain circumstances they are permitted to amend money bills. In cases where clauses which have no direct bearing on the matter of taxation, are objectionable to the Lords, amendments are sometimes permitted, but so careful are the Commons of their privilege that in agreeing to such amendments, a special entry‡ is made in the journal to the effect that the amendments were "for the purpose of rectifying clerical errors," or "were merely verbal," or were "in furtherance of the intention of the House of Commons."

Sometimes also it is expedient to allow the House of Lords, from its greater knowledge of the subject under consideration, to originate bills which contain clauses relative to taxation. On the third reading of such a bill these clauses are struck out and the bill is sent to the Commons without them. The Commons then take the clauses omitted and print them in their proper place in red ink, with a note

*Hansard's Debates, 3rd Ser., Vol. 163, p. 69.
†May, Parliamentary Practice, p. 648.
‡Ibid., p. 643, ff.

stating that "they are proposed to be inserted by committee" and they are supposed to be in blank until inserted by a formal motion. The House of Commons is, however, extremely jealous of its privileges, and a bill coming from the Lords which contains anything bearing on taxation is likely to be objected to at any time.* In fact the power of the Commons over the grant of supply is absolute whenever the Commons see fit to exercise it. The Commons make the grant, the Lords merely assent to it. The relation between Crown, Lords and Commons in the matter of supply is clearly set forth by May. He says, "The Crown demands money, the Commons grant it, and the Lords assent to the grant, but the Commons do not vote money unless it be required by the Crown, nor impose or augment taxes unless they be necessary for meeting the supplies which they have voted or are about to vote, and for supplying general deficiencies in the revenue. The Crown has no concern in the nature or distribution of the taxes, but the foundation of all parliamentary taxation is its necessity for the public service as declared by the Crown through its constitutional advisers."† The general principle that the Commons will not grant supplies unless they are proposed by the Crown was emphasised by a standing order of March 20, 1866:‡ "This House will receive no petition for any sum relating to the public service, or proceed upon any motion for a grant or charge upon the public revenue, whether payable out of the consolidated fund, or yet of moneys to be provided by Parliament, but what is recommended from the Crown."§ Such a principle is not only a great safeguard against hasty and unwise appropriations, but it ensures a careful balancing of income and expenditure.‖

The importance of the control of taxation is nowhere more evident than in England, where the Commons possessing this power, have practically become the sole governing body. In the end, the control of the purse brings with it the control of all matters of legislation

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*For example, June 15, 1860, a bill introduced by the Lords came up for its second reading in the Commons. It provided that persons selling and hawking goods on Sunday should be fined and the fine paid over to the Receiver of the Metropolitan Police district and applied in aid of the expenses of the police. But an objection was made that a good share of the expenses of the Metropolitan and City Police was provided for out of the consolidated fund and hence the bill was one which would lessen the taxation of Her Majesty's subjects, and so was an invasion of the rights of the Commons. Hansard's Debates, 3rd Ser., Vol. 159, p. 539.

†May, Parliamentary Practice, p. 651.

‡Hansard's Debates, 3rd Ser., Vol. 223, p. 879.

§Formerly the military estimates were not submitted by the Crown but by a committee of the House of Commons, the reason probably being the fear of the influence of the Crown over the army. But in 1863 this custom was abolished and all estimates are now proposed by the Crown ministers.

‖Yet by means of what are called "abstract resolutions," a member of the House can cause the introduction of a bill relating to taxation. A resolution is presented declaring that such a bill ought to be introduced, and if the resolution passes the ministry will hardly refuse to introduce the bill thus brought to their notice. Such resolutions are certainly contrary to the spirit of the constitution and the standing order of March 2, 1866.

The form of government in England, which permits the plans for legislation to be made by a responsible ministry, gives to the people an effective influence upon financial questions, and as a consequence, upon all questions of public interest. The control of the budget by the people, through their representatives, more than any other thing secures the maintenance of constitutional liberty in England, and its history is really identical with the history of constitutional liberty. The conditions in the United States differ widely from those existing in England, yet a comparison of the position taken by the House of Representatives, in the control of money affairs, with that of the House of Commons is of the greatest interest in an historical point of view, and as indicating the trend of our own governmental development.

C.—Development of Financial Committees in the House of Representatives.

As the House claims the supreme control in financial matters, it also makes itself responsible for their correct management. In this connection it is necessary to outline briefly the history of the method by which the House conducts its business and particularly its financial affairs. Such an outline must necessarily treat of the growth of the system of financial committees now used by the House, for it is by means of committees that business of every sort has been conducted and controlled. The development in the committee of Ways and Means and of others will therefore be traced.

The method of appointment of committees in the House is first noticed in a resolution of April 7, 1789: "The Speaker shall appoint committees, unless it be determined by the House that the committee shall consist of more than three members, in which case the appointment shall be by ballot in the House."* This resolution formed a part of the standing rules and orders of the House. It was soon found that the balloting for members of committees was an intricate and tiresome proceeding, so that January 13, 1790 it was ordered "that hereafter it be a standing rule of the House that all committees shall be appointed by the Speaker unless otherwise specially directed by the House in which case they shall be appointed by ballot."† However, these committees were only special committees, whose existence was dependent in every case upon a formal motion passed by the House. The first committee of Ways and Means‡ was appointed on motion of Mr. Gerry, who found some difficulty in convincing the House that there was any necessity for

*House Journal, 1789-92, p. 9.
†Ibid., p. 140.
‡Ibid., July 21, 1789, p. 63.

even a special committee to consider financial measures.* The appointment of a committee of Ways and Means as a special committee was continued until 1795, when it was made a standing committee to hold during the session, and its duty was defined to be "to take into consideration all such reports of the Treasury department, and all such propositions relative to the revenue as may be referred to them by the House, * * * to inquire into the state of the public debt; of the revenue; and of the expenditures; and to report from time to time their opinion thereon."† But it was not until 1802 that an amendment to the rules of order was adopted that "five standing committees shall be appointed at the commencement of each session."‡ Among these was a committee of Ways and Means, with increased duties and enlarged powers. The rule accepted the exact wording of the resolution of 1795, but specified in addition "it shall be the duty of this committee * * * to examine into the state of the several public departments, and particularly into the laws making appropriations of money, and to report whether the moneys have been disbursed conformably to such laws, and also to report from time to time such provisions and arrangements as may be necessary to add to the economy of the departments and accountability of their officers." This extension of the duties of the committee of Ways and Means, was a part of the plan of attack upon the independent position assumed by Hamilton, and other Secretaries.§

The press of business in Congress soon made it necessary to extend the committee system, and other committees, having a share in the control of the budget, were appointed. In 1814 it was resolved "that an additional standing committee be appointed to be called a committee for public expenditures,"‖ whose duty it should be "to examine into the state of the several public departments, and particularly into the laws making appropriations of money, and to report whether the moneys have been distributed conformably with such laws; and also to report from time to time such provisions and arrangements as may be necessary to add to the economy of the departments and the accountability of their officers." However, the committee of Ways and Means remained the most important and most influential of the House, and it was not until 1865 that its duties and powers were lessened in any way. In that year Mr. Cox of Ohio proposed an amendment** to the House rules for thecreation of a new committee on

*Annals of Congress, Vol. I, p. 670.
†House Journal, 1793-97, p. 385.
‡Ibid., 1801-04, p. 40.
§See ante pp. 185-87.
‖House Journal, Vol. IX, 1813-15, pp. 311, 314.
**Cong. Globe, Vol. LX, pt. I, p. 666; and Vol. LXI. pt. II, p. 1312.

Appropriations. In support of this amendment he said: "It not proposed to strike out the committee of Ways and Means. This committee is still to be preserved and their future duty is to raise revenue for carrying on the government. This includes of course the tariff, internal revenue, loan bills, legal tender notes and all other matters connected with supporting the credit and raising money. * * * The proposed committee on Appropriations have, under this amendment, the examination of the estimates of the departments, and exclusively the consideration of all appropriations."* The two main reasons given by Mr. Cox for this change were the actual pressure of business on the committee of Ways and Means; and the hope of a more economical management of the finances, since the new committee could make a more careful investigation of bills. In answering the objection that such an arrangement would result in a lack of harmony between the two sides of the budget, Mr. Garfield† said that it would be an easy matter for the committees to furnish each other estimates and confer with each other. The amendment encountered little opposition and was passed March 2, 1865. By it the duties of the commitee of Ways and Means are declared to be "to take into consideration all reports of the Treasury department and such other propositions relative to raising the revenue and providing ways and means for the support of the government as shall be presented or shall come in question and be referred to them by the House, and to report their opinions thereon by bill or otherwise as to them shall seem expedient."‡ That portion of its duties which was now transferred to the committee on Appropriations, was determined by Rules 76 and 77,§ as follows:" Rule 76, "It shall be the duty of the committee on Appropriations, to take into consideration all executive communications and such other propositions in regard to carrying on the several departments of government as may be presented and referred to them by the House;" Rule 77, "It shall also be the duty of the committee on Appropriations, within thirty days after their appointment at every session of Congress, commencing on the first Monday of December, to report the general appropriation bills, for legislative, executive and judicial expenses; for sundry civil expenses; for consular and diplomatic expenses; for the army; for the navy; for the expenses of the Indian department; for the payment of invalid and other pensions; for the support of the Military Academy; for fortifications; for the service of the Post Office department and for mail transportation by ocean steamers; and in failure thereof the

*Cong. Globe, Vol. LXI, pt. II, p. 1312.
†Ibid., p. 1316.
‡See Rules of Order of 37 Cong., House Journal, 1862-63, 3 Sess., Appendix, p. 632.
§Ibid.

reasons for such failure. And said committee shall have leave to report such bills at any time."* Thus the appointment of a committee on Appropriations made it necessary to consider separately the income and expenditure sides of the budget. More than this, in 1883, a subdivision of the question of expenditure was effected, by the appointment of a committee on Rivers and Harbors,† which has the same privileges in reporting bills making appropriations for the improvement of rivers and harbors as is accorded to the committee on Appropriations in reporting general appropriation bills.

Besides these three great committees there are eight others which deal with questions of the budget inasmuch as it is their duty to see that the money given by the general appropriation bills to the various departments is properly expended. But these eight committees have little or nothing to do with outlining the policy of the government in budgetary legislation.

In the Senate the main budgetary committees are those on Finance, on Appropriations and on Public Expenditures. The small size and compact organization of the Senate made it possible for that body to do without the committee system much longer than the House. The first committee on Finance‡ was appointed in 1815, and this was merely a special committee demanded by an unusual amount of business about to be transacted; but this special committee was of so much value that in the following year a resolution was passed providing for the appointment of eleven standing committees§ on various topics, among them a committee on Finance. The resolution provided "that so much of the message of the President of the United States as relates to the finance and a national currency, be referred to the committee on Finance with leave to report by bill or otherwise."‖ In 1867 the Senate, following the example of the House, lightened the duties of the Finance committee by the appointment of an Appropriations committee. The resolution authorizing this new committee was agreed to by unanimous consent, all that it was necessary to say being that its purpose was to lighten the onerous labors of the Finance committee.**

The committee system of the Senate need not be considered at length, for it is that of the House and its effect upon the control of money matters which is of particular interest. It is evident that the

*The time limit on the report of the general appropriation bill was first placed in the rules September 14, 1837, and the special privileges given to reports of committees of Ways and Means and on Appropriations were placed in the rules March 19, 1860.

†Cong. Record, Vol. XIV, pt. I, p. 702, and Vol. XV, pt. I, pp. 214-216, 223.

‡Annals of Cong., 1815-16, I Sess., p. 20

§Ibid., 1816-17, I Sess., p. 30.

‖Ibid., p. 32.

**The committee on Finance now consists of eleven, and the committee on Appropriations of ten, Senators.

committee system is the essential part of the machinery by which the House carries on its business. An argument may be directed, however, against the effect of that system upon the constitutional provision so often referred to and upon the great principle underlying it, that the people, through their representatives, should have direct control of all financial legislation.

D.—The Effect of Business Methods in Congress upon Responsibility for Financial Action.

In the foregoing sketch three points of particular interest are brought out. First: that the struggle for popular control of the purse had been fought out in England before the formation of the United States government, except in so far as the American Revolution was a struggle for this principle, and that the people of the United States inherited the right of control over taxation and expenditure. This is shown by sections in colonial charters, by debates of the constitutional convention, and by state constitutions. Second: events in Congressional history indicate that the House of Representatives regards itself as having by constitutional right supreme power over money bills, in order that control may be guaranteed to the people. Third: the press of business in Congress early led to the assignment to committees of affairs of every sort, thus giving to a selected body of members general direction of monetary questions, excluding, in a measure, other members from an equal power of direction.

Conceding then that the principle of self-taxation, as developed in the English constitution, has been incorporated in the constitution of the United States, and that Congress is today trying to secure to the people the realization of that principle, it is the purpose of the remainder of this paper: first, to indicate wherein the people have failed to secure their constitutional right to the control of taxation; and, second, to consider the various suggestions made for remedying this evil, and to note in what respect they are available or otherwise.

There are now in the House of Representatives forty-seven standing committees, eleven of which have, either directly or indirectly, to deal with questions of the budget. In order to appreciate fully the influence of these committees it is necessary to trace the various stages through which a money bill must pass before it becomes a law.* At the beginning of each session the Secretary of the Treasury presents his report of the financial condition of the government, and his estimates of the revenue and expenditure for the coming year.

*The Budget, Cobden Club Series, pp. 105-123.

These estimates are based upon reports made to the Secretary by the heads of the other departments. They are transmitted to Congress in the shape of a letter addressed to the Speaker of the House, and are then referred to the financial committees of the House. The committee of Ways and Means considers that part of the estimates which has reference to the raising of money, and the committee on Appropriations that part which refers to the general expenditure of money. The estimates are often accepted and bills framed in accordance with them, but frequently the bills are entirely at variance with the estimates. The committees are not even under obligation to examine them. The Secretary of the Treasury has not the privilege of appearing before the House, and can only appear before the committees when invited. The preparation of money bills is therefore really in the hands of the financial committees of the House, and their chairmen may exert greater influence upon methods of raising and expending revenue than any other person save the Speaker of the House. Thus the only official whose duty it is to balance income and expenditure has power to do no more than to suggest such a course.

In tracing a money bill through the stages usually essential before it can become a law a measure proposed by any one of the great committees will suffice as an illustration. When the committee on Appropriations has thoroughly digested the estimates or has made out a new scheme of expenditure to suit itself, it begins to bring in bills authorizing specific appropriations for the various departments. If a member disapproves of the bill presented he may of course introduce a bill of his own. But a rule of the House, which provides that each bill must pass through the hands of its appropriate committee before it can come up for discussion, gives to the chairman power to kill a bill by refusing to report it, unless a majority of the House orders a report. Thus though theoretically each member of the House has an active voice in determining taxation, practically his influence is insignificant unless he is a member of an important committee.* The committee on Appropriations, then, has practically the control of the appropriation of money for the expenses of government. The same thing is true, in their fields, of the other committees. Mr. Woodrow Wilson, in his treatise on "Congressional Government," declares our laws are enacted by committees rather than by Congress.

When an appropriation bill has been passed by the House it is sent to the Senate and there referred, without discussion, to the committee

* When the committee on Appropriations presents a bill, the House goes into committee of the whole where each member is supposed to be privileged to discuss or propose amendments to the bill. But in fact, by a custom of the House, a member cannot gain the recognition of the Chair to propose an amendment unless he has previously made some arrangement with the chairman of the committee on Appropriations. The chairman of that committee is absolute master of the debate. See North American Review Vol. 168, article by Senator Hoar on "The Conduct of Business in Congress."

on Appropriations. When that committee has submitted its report the bill is either accepted or amended. If it is amended it is sent back to the House for reconsideration. In the case of money bills the House almost invariably refuses to accept the amendments, and proposes a conference committee of three members from each house; the Senate accepts the proposition and the committee usually changes the bill so that it becomes a compromise and fails to meet the real purpose of either house. The question arises, is there anything in this system which prevents the realization of the principle that the people should control the purse? How does it influence the budget?

It is found that two evils result from the committee system. The first is that the origination of money bills by a number of committees prevents homogeneity in the financial measures of the year. The committee of Ways and Means need have no communication with that on Appropriations. Each committee may prepare its bills absolutely without reference to the measures proposed by the others. In the appropriations for ordinary and general expenses of the government the income of the year is probably referred to, and in its consideration of measures for raising revenue the Ways and Means committee must provide for the customary expenditures for the year, but there must result either lack of harmony or a lack of appreciation of the exact needs and conditions in revenue and expense. It is an arrangement which would not be tolerated in any private business enterprise. When the budget of the year is drawn up it should be known just what revenue may reasonably be expected and for just what expenses that revenue is to be used. These might be changed, but if alterations were made it should be by way of cutting out one item and inserting another in its place so that the general estimates would be retained. At present there is not that careful balancing of income and expenditure which would probably be secured if the whole budget were in the hands of one committee. In any other country such a system would long ago have resulted in financial disaster, but until recently the United States has been blessed with a surplus that permitted the Appropriations committee to proceed almost without reference to the propositions of the committee empowered to raise money. Such a system has naturally resulted in foolish expenditure, extravagance and looseness in accounts.

This divided committee system of the House is unwise also in that it lessens the responsibility of the committees to the House. When a committee presents a bill it knows that the House has less interest in the bill than could be relied upon if the effect of the passage of one bill upon other financial measures could be appreciated. Because of this lack of interest the committee knows that the

bill is certain to be less carefully criticised than would be the case if the negative as well as the positive effect of the measure were sure to be examined. As bills are now presented, each appears to stand upon its own merits without consideration of its bearing upon any other which may have been passed or has yet to be presented. Under such conditions the responsibility of a committee to the House is limited to the general advisability of the measure in question, and cannot be extended to the question of effect upon other financial measures.

There is another still greater evil connected with the committee system, that, contrary to the spirit of the constitution, the people cannot promptly secure from Congress any desired financial legislation. According to the theory of the constitution a member of the House of Representatives is directly responsible to the voters of his district. He is to be held strictly accountable for his position on every question before Congress. But with our committee system such a strict responsibility is impossible. A member has practically no power to influence legislation unless he is upon some important committee. Fifteen members of the House determine what bills shall be introduced toward meeting the expenses of the government, and all that the other members have to do on these questions is to "vote with the party." In the majority of cases it is the chairman of the fifteen who has the deciding voice in the preparation of bills. One man, who has in his hands almost absolute control of all appropriation bills, or of all revenue bills, is responsible, not to the whole nation every part of which is deeply interested in such legislation, but to a single district of a single state.*

This is an extreme statement, and there are many ways in which, after all, the power of party or the force of public opinion will compel any chairman to bring in such bills as will meet the popular demand. The real power over legislation is exerted by the person appointing committees and chairman, that is, by the Speaker of the House, but neither he nor his appointee can be held personally responsible to the people at large. Neither Speaker nor chairman could compel the House to pass measures utterly distasteful to it, but the power exercised by each in his respective position is so great

*In this connection it is interesting to note that the irresponsibility of a committee chairman has been referred to in Congress itself. In a speech against the Wilson tariff bill, on February 1, 1894, Mr. Reed, of Maine, said: "In this debate, which has extended over many weeks, one remarkable result has already been reached—a result of the deepest importance to the country. That result is that the bill is odious to both sides of the house. It meets with favor nowhere and commands the respect of neither party. On this side we believe that while it pretends to be for protection it does not afford it, and on the other side they believe that while it looks toward free trade it does not accomplish it. * * * Whatever speches have been made in defense of the bill on the other side whether by gentlemen who were responsible only to their own constituencies, or by the gentleman from West Virginia, who ought to have been steadied by his sense of responsibility to the whole country," etc.—Speech reported in Kansas City *Star* Feb. 1, 1894.

that the will of the majority is often defeated. It is the Speaker who in the last analysis controls legislation, and it is against the exercise of such power by him, under the committee system, that this argument is directed rather than against the chairmen of committees.

By selecting chairmen whose views agree with his own the Speaker has a direct influence upon the course of legislation. In addition to this he has power even against the chairman he has himself selected, as in the event of a conference committee when the appointment of the three House members devolves upon him. Yet the Speaker also, all-powerful as he is, is personally responsible, not to the nation, but to the one congressional district from which he is elected. It is true, the force of party or public opinion serves to control the Speaker inasmuch as his political ambition and loyalty to party will prevent him from conducting his office so as to violate party pledges or policy. The importance of these indirect methods of control is not to be underestimated, yet there should be some real check so as to secure effective responsibility.

There are but two officials in the national government in whose election the voter has a direct voice. These are the President of the United States and the representative in Congress. If the voter fails to secure effective control of the purse through the representative, he can turn only to the President; hence arises the importance of Presidential elections in determining popular wishes. The Presidential nominee, in his letter of acceptance, outlines his policy and his propositions for legislation. The voter of the country, certain to have his own ideas upon public questions, accepts these declarations of the nominees as the basis upon which he decides how he will cast his ballot, and believes that in his vote he has given effective force to his legislative wishes. But the President, for whom he has voted, has no more direct influence over legislation than has the voter himself. Occasionally we have a President who, by mere force of character, gains a powerful influence over his party and compels its members in Congress to do his bidding. But as a general rule our Presidents do not exert any real influence on the origination of legislation. Nevertheless voters hold the President responsible for a power which he cannot exercise, and if the legislation, for which the Speaker of the House and his heads of committees are responsible, does not satisfy the people, they refuse to support the President at the next election. Men think that the policy of the government in matters of legislation is decided by the election of a Presidential candidate while the fact is that the voters simply express an opinion which an irresponsible chairman of a committee is in no way compelled to regard. Budgetary legislation is of the utmost importance

to the nation. Free trade, protection, pensions, internal improvements, expenditures in the various departments, are all questions of budgetary legislation, and are all considered by the intelligent voter before he casts his ballot for President. In this way the budget undoubtedly has an influence upon politics, but on the other hand, politics do not have any marked influence upon the budget. Under our form of congressional autocracy, the vote of the people has not the influence which it should have upon bugetary legislation, or in fact upon legislation of any sort.

It is impossible then for the people to fix any effective responsibility for the use of the public money by means either of the district election of representatives, or of the national election of a President. The President has not the power of the purse and ought not to be held responsible. The Speaker of the House and his committeemen do have the power of the purse and cannot be held responsible under the existing forms.* It was the central thought of the framers of the constitution that there should be a division of power and a consequent division of responsibility, thus obviating the dangers of centralization. But the history of ours and other nations proves that such a division of power is practically impossible for any length of time. Sooner or later some branch of government gains a power almost if not quite supreme. In the United States it is Congress which has become the supreme power, and the Speaker of the House who is its exponent. While the constitution intended a division of power and a division of responsibility, the government which has sprung from it is one in which power has been concentrated in the hands of Congress, while the responsibility is still divided.

Under these conditions it is natural that the public mind has come to recognize something alarming in the spectacle of such unlimited power with such limited responsibility, and to call for reform of some sort by which this trend of constitutional development may be arrested. In this case, proposed remedies cannot be limited to the improvement of budgetary conditions merely, but must include the securing of an effective responsibility for all congressional action. Many such reforms have been suggested, some of them aiming only at improved financial methods, and some of a wider significance. The first suggestion is that the various financial committees be united,

*A quotation from Wilson's "Congressional Government," pp. 331-2, emphasizes this statement: "The average citizen may be excused for esteeming government at best but a haphazard affair, upon which his vote and all of his influence can have but little effect. How is his choice of a representative in Congress to affect the policy of the country as regards the questions in which he is most interested, if the man for whom he votes has no chance of getting on the Standing Committee which has virtual charge of those questions? How is it to make any difference who is chosen President? Has the President any very great authority in matters of vital policy? It seems almost a thing of despair to get any assurance that any vote he may cast will even in an infinitesimal degree affect the essential courses of administration."

so that there shall be harmony in budgetary legislation. The revenue and expenditure sides of the budget would be much more likely to be carefully balanced by one committee than by several. This suggestion would probably result in better business methods, but it would not in any way affect the main question of effective responsibility. It would ensure a more careful consideration of the relation between taxation and expenditure, but it could not secure to the people any real control over either the extent or purpose of such taxation and expenditure.

A second suggestion is, that the number of the members of the House of Representatives be diminished and that the committees be chosen entirely from the ranks of the majority. It is urged that by reducing the number of representatives the number of voters necessary to elect a representative is increased so that he is made a national, instead of a sectional, representative, with national rather than sectional responsibility. This is true only to a limited extent. It might be possible to gain an improved responsibility in this way, but not an effective responsibility. The fewer the representatives the greater will be the influence of any one representative's vote in deciding national policy, and moreover he will be inclined to view questions from a national rather than from a sectional standpoint. But this does not alter the measure of his responsibility to his constituents in any degree. The second part of the suggestion is intended to make the party in power responsible for the propositions of its committees, but it does not appear how it will accomplish this result. In Congress today the majority in the House have a majority of their own number on every important committee. The responsibility of the majority is as effective under the present system as it would be if none but the members of the majority formed the committee. Neither of these suggestions touches the real trouble underlying the committee system of government.

A third suggestion, which does recognize this evil, is that to the President shall be given the power of appointing the chairmen and members of the committees of the House. The argument is as follows: This power could be given to the President without any radical change in the seemingly indispensable committee system. It would, it is true, greatly increase the power of the executive over legislation, but it would not be so apparent a change of the forms of government as to rouse the opposition of the people. It would bring to the voter the realization of his idea, at present erroneous, that in his vote for President he has a direct influence upon legislation. The President, by the appointment of members of committees whose ideas upon financial legislation agreed with his own, would become the one

person upon whom the responsibility for such measures would rest. And it is fitting that this should be so, since the President is the only officer of importance for whom all voters have the privilege of casting their ballots. The President is the only person from whom it is possible to obtain an effective responsibility.

The suggestion is interesting as the only one so far which clearly recognizes and attempts to remedy the lack of responsibility in government. But it seems impracticable, failing to consider the possibility of a President whose political views do not coincide with those of a majority in the House. This may easily come about. Under such circumstances committees appointed by him, reflecting his views, could not possibly possess the confidence of the House, and no committee could hope to do efficient work unless supported by a majority. Such a committee would soon realize its dependence upon the majority whose votes are necessaryto carry out its propositions, rather than upon the President whose power is limited to the privilege of suggestion.

On the other hand, if the President, recognizing the impracticability of appointing commitiees not in harmony with the majority, should lay aside his own plans for legislation and appoint the committees from among the members of the opposition, he would thereby make of no effect the result of the presidential election. He would thus cast upon the House a responsibility which, as has been seen, it is impossible to demand from that body. The suggestion would be practicable only when the President and the House were in harmony. At any other time it could only result in continual disputes between the executive and Congress.

A fourth suggestion is that the United States adopt the cabinet system. There are several forms of this system, but the central idea of each is that of a Ministry responsible to an elected House of Representatives, and remaining in power only so long as the Ministry and a majority of that House are in harmony. In case of an adverse vote in the House, upon some important question, the Ministry must either resign office to an opposition party or appeal to the country for vindication. The suggestion usually made is that the United States adopt as far as possible the English system, but whatever form of cabinet government should be selected it would involve a complete change in our institutions. The most important change would be the election of a President for a long term, and placing him so far above ordinary party politics that he could interfere in no way in the conduct of national business. He would merely be the one to whom the Ministry, on loss of power, should surrender office. His position would be similar to that of the President of the French Republic

today. The real head of affairs would be some member of the party in power who so far possessed its confidence as to retain a majority in the House of Representatives. The Speaker of the House would become a presiding officer simply, for no one could at the same time discharge the duties of Speaker and Premier, Elections would not take place at regular intervals but on occasion of an appeal to the country. The Senate could be left as it is now and would in some measure serve as a check upon too hasty legislation, but even then the introduction of the system would necessitate both radical and minute changes in the present government.

This suggestion involves much more than the mere reform of budgetary rules, yet it is of importance for laying stress upon effective responsibility to the voters of the country, and it is difficult to see how the real control of the purse can be secured to the people, without at the same time securing to them control of all questions of legislation. The most effective argument against the cabinet system is the doubt whether it is adapted to conditions in the United States.

Still another suggestion, likewise meant to remedy the lack of responsibility, is that of the Socialists. They demand that the offices of President and Vice-President, and the Senate, be abolished and that the government be carried on by an Executive Board elected by the House of Representatives. They propose also that all laws of importance shall be presented to the people for their direct vote. It is evident that a Board so elected would correspond nearly to a ministry holding office while supported by a majority in the House of Representatives, as under the cabinet system. The Socialist plan preserves elections at regular periods and includes an executive body elected directly by the Representatives, while the cabinet system does away with elections at regular periods and makes the executive body dependent upon a majority in the House though not directly elected by them. The essential idea of the two suggestions is, nevertheless, the same, that this body is made responsible to representatives, and representatives to people. The same objection holds against both, though in a greater degree against the Socialist plan; namely, that they involve a radical change in the present form of government. If there is a way by which the desired results may be obtained without change of institutions, or with less change, that way merits more favorable consideration.

The serious objection to the third plan of reform stated above was the possible conflict between a President and House of different parties. It remains to determine whether there is any method by which the necessary political harmony between President and House may be guaranteed. Stated briefly the changes which would be

necessary in present customs and institutions are as follows: first, the election of President and members of the House of Representatives for the same length of time, second; the choice of Presidential electors by districts within states, instead of by states as units, third; the giving to the President the right of appointment of committees in the House. The first of these changes would render necessary a change in the constitution, the second would require primarily a change in custom and might involve a change in the constitution, while the third would demand a change in custom only.

The first and second of these proposals have been made many times, but their advocates have had other ends in view than that here proposed. The first proposal would necessitate an alteration in the length of term either of the President or of the Representatives, reducing the Presidential term to two years or increasing that of the Representatives to four. One slight constitutional change would be sufficient for this end in either case. The second proposal would involve, primarily, a change in custom, although a constitutional change might be necessary finally. According to the constitution the legislature of each state determines the method of choosing presidential electors, and it has usually been done by general ticket. Some of the states, however provided for elections by districts but the plan was everywhere abandoned by 1832. Recently it has been revived in the State of Michigan. The necessity for a possible constitutional change is explained by the following conditions. According to the constitution the number of electors to which each state is entitled shall be "equal to the whole number of Senators and Representatives to which the state may be entitled in Congress." Each state would have two more Electors than Representatives in Congress and for this reason either the Electoral districts could not be made to correspond exactly to the Representative districts, or two electors must be chosen at large. As the general ticket vote of a state does not always correspond to its majorities by districts, and the two electors at large might not agree with those chosen in the districts, it is conceivable that the electoral college might elect a President not in harmony with a majority in the House although it is not probable. To obviate this difficulty a constitutional change would be necessaay, reducing by two the vote of each state in the electoral college, making in each state the number of Presidential electors equal to that of the Representatives.

The two proposals already considered involving certainly one, and possibly two, alterations in established institutions, apparently insure harmony between the President and the House of Representatives, but they do not alter in any direct way the nation's power of control

over governmental action. In order to provide this direct control, the third plan, that of permitting the President to appoint the standing committees of the House, must be included in the proposed remedy. The points in its favor have been outlined in the preceding pages. There is no constitutional provision involved. It has been the House custom to give the speaker the power of appointment and to confer that right upon the President would require a change in custom.

The combination of these three proposals secures as great a measure of effective responsibility as does either the cabinet system or the proposal of the socialist party, and with much less change in the written law of the land. In each case, however, it is certain that adoption, whether of the cabinet system, the socialist plan, or that of giving to the President power over committees, means in the end the elevation to great authority of one man who is some how really responsible for his actions. Under the cabinet system this man is the Premier, under the Socialist system he is the chairman of the "Executive Board," and under the last form he is the President of the United States. Each of these proposals necessitates the union to a great degree, of executive with legislative functions, or at least with the function of originating legislation, and in this respect the plans are alike in involving a change in the theory of the constitution. It is commonly asserted that the constitution intended a division of the main functions of government into three distinct heads, executive, legislative, and judicial. While it is doubtful whether such a division is practicable, yet if this principle be accepted as constitutional then it must be acknowledged that any one of the proposed changes directly challenges the theory of the constitution.

In this sketch of the history of budgetary principles and rules in the United States it has been noted that the constitutional convention declared for the control of taxation by the people; that the House of Representatives emphatically asserted the same principle in contests with the Secretary of the Treasury and with the Senate, but that the necessary organization of Congress and particularly the committee system of the House have made impossible a perfect realization of this principle, so that some reform is urgently necessary. Next it has been observed that accepting the committee system as a necessary business arrangement any effective reform which gives the people a control of financial legislation, insures the same responsibility for all other legislation. Finally, it is affirmed that there are at least three ways in which effective control may be secured, but that two of these involve a considerable change in established institutions, while a third involves only minor changes and is therefore preferable. In the end, however, it is conceded that any effective reform must mean a change

in governmental theory in that it partially unites executive and legislative functions.

Thus the proposition of reform is no longer confined to a specific point in the constitution but involves a wider conception of the necessities of the times. Control of the budget means today, as it did centuries ago in England, the control of all government functions. Responsibility for financial management means responsibility for all management. Direct responsibility which may be felt at every election is a necessity of present conditions. The demand today is for good government and much of it and not for a lack of government. The demands of a nation for reform must be correctly interpreted and such demands must be realized. An irresponsible government can not and will not, either correctly interpret or attempt to realize national demands, while a responsible government must always interpret honestly and put in force promptly whatever seems to be the nation's clearly expressed will.

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